

GOVERNMENT OF INDIA
REFORMS OFFICE

THE
UNREPEALED CENTRAL ACTS
WITH
CHRONOLOGICAL TABLE AND INDEX

VOLUME VI
From 1911 to 1916, both inclusive



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LIST OF ABBREVIATIONS USED.

A. O.	for Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.
B. & O.	.	.	.	.	.	„	Bihar and Orissa.
Ben.	.	.	.	.	.	„	Bengal.
Bom.	.	.	.	.	.	„	Bombay.
Brit. Enact., I. S.	.	.	.	.	.	„	British Enactments in force in Indian States.
Ch.	.	.	.	.	.	„	Chapter.
Cl.	.	.	.	.	.	„	Clause.
Coll. Stat. Ind.	.	.	.	.	.	„	Collection of Statutes relating to India.
C. P.	.	.	.	.	.	„	Central Provinces.
E. B. & A.	.	.	.	.	.	„	Eastern Bengal and Assam.
Gen. R. & O.	.	.	.	.	.	„	General Statutory Rules and Orders.
G. G. in C.	.	.	.	.	.	„	Governor General in Council.
G. G. of India in C.	.	.	.	.	.	„	Governor General of India in Council.
G. in C.	.	.	.	.	.	„	Governor in Council.
G. of I.	.	.	.	.	.	„	Government of India.
Govt.	.	.	.	.	.	„	Government.
Ins.	.	.	.	.	.	„	Inserted.
L. G.	.	.	.	.	.	„	Local Government.
Mad	.	.	.	.	.	„	Madras
N.-W. F. P.	.	.	.	.	.	„	North-West Frontier Province.
Pt.	.	.	.	.	.	„	Part.
R. and O.	.	.	.	.	.	„	Rules and Orders.
Reg.	.	.	.	.	.	„	Regulation.
Rep.	.	.	.	.	.	„	Repealed.
S.	.	.	.	.	.	„	Section.
Sch.	.	.	.	.	.	„	Schedule.
Subs.	.	.	.	.	.	„	Substituted.
U. P.	.	.	.	.	.	„	United Provinces.



CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS,
1911-1916.

1	2	3	4
Year.	No.	Short title.	Page.
1911	I	The Opium (Amendment) Act, 1911 . . .	1
	II	The Indian Patents and Designs Act, 1911 . .	1
	VIII	The Indian Army Act, 1911	39
	X	The Prevention of Seditious Meetings Act, 1911 .	90
	XVIII	The Calcutta Improvement (Appeals) Act, 1911 .	92
	XIX	The Cowasjee Jehangir Baronetcy Act, 1911 . .	93
1912	II	The Co-operative Societies Act, 1912	102
	IV	The Indian Lunacy Act, 1912	118
	VII	The Bengal, Bihar and Orissa and Assam Laws Act, 1912.	159
	VIII	The Wild Birds and Animals Protection Act, 1912 .	165
	XIII	The Delhi Laws Act, 1912	167
1913	II	The Official Trustees Act, 1913	170
	III	The Administrator General's Act, 1913	182
	IV	The Sir Currimbhoy Ebrahim Baronetcy Act, 1913	204
	V	The White Phosphorus Matches Prohibition Act, 1913.	218
	VI	The Mussalman Wakf Validating Act, 1913 . .	219
	VII	The Indian Companies Act, 1913	220
1914	II	The Destructive Insects and Pests Act, 1914 . .	457
	III	The Indian Copyright Act, 1914	458
	VIII	The Indian Motor Vehicles Act, 1914	487
	IX	The Local Authorities Loans Act, 1914	495
1915	II	The Sir Sassoon Jacob David Baronetcy Act, 1915 .	499
	VII	The Delhi Laws Act, 1915	503
	X	The Sir Jamsetjee Jejeebhoy Baronetcy Act, 1915 .	508
	XIII	The North-West Frontier Constabulary Act, 1915 .	525
	XVI	The Benares Hindu University Act, 1915 . . .	534
1916	VII	The Indian Medical Degrees Act, 1916	553
	XV	The Hindu Disposition of Property Act, 1916 .	555

PART I.

PATENTS.

Application for and Grant of Patent.

SECTIONS.

3. Application.
4. Specification.
5. Proceedings upon application.
6. Advertisement on acceptance of application.
7. Use of invention on acceptance of application.
8. [*Repealed.*]
9. Opposition to grant of patent.
10. Grant and sealing of patent.
11. Date of patent.
12. Effect, extent and form of patent.
13. Fraudulent applications for patents.

Term of Patent.

14. Term of patent.
15. Extension of term of patent.
- 15A. Patents of addition.
16. Restoration of lapsed patent.

Amendment of Application or Specification.

17. Amendment of application or specification by Controller.
18. Amendment of specification by the Court.
19. Restriction on recovery of damages.

Register of Patents.

20. Register of Patents.

Crown.

21. Patent to bind Crown.
- 21A. Assignment of patent to the Central Government.

Compulsory Licenses and Revocation.

22. Compulsory licenses and revocation.
23. Revocation of patents worked outside British India.
- 23A. Operation of order under section 22 or section 23.
24. Power of Controller to revoke surrendered patent.
25. Revocation of patent on public grounds.

Powers, etc., of Central Government.

SECTIONS.

77. Power for Central Government to make rules.

Offences.

78. Wrongful use of words "Patent Office".

Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.

78A. Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.

Savings and Repeal.

79. Saving for prerogative.

80 & 81. [*Repealed.*]

THE SCHEDULE—FEES.

ACT No. II OF 1911.¹

[1st March, 1911.]

An Act to amend the law relating to the protection of Inventions and Designs.

WHEREAS it is expedient to amend the law relating to the protection of inventions and designs ; It is hereby enacted as follows :—

PRELIMINARY.

1. (1) This Act may be called the Indian Patents and Designs Act, 1911. Short title,
 (2) It extends to the whole of British India, including British Baluchistan extent and
 and the Santhal Pargauas ; and commence-
ment.

(3) It shall come into force on the first day of January, 1912.

2. In this Act, unless there is anything repugnant in the subject or con- Definitions.
 text,—

²[(1) " Advocate General " means an Advocate General appointed under the Government of India Act, 1935 :]

(2) " article " means (as respects designs) any article of manufacture and any substance, artificial or natural or partly artificial and partly natural :

(3) " Controller " means the Controller of Patents and Designs appointed under this Act :

¹ For Statement of Objects and Reasons, see Gazette of India, 1910, Pt. V, p. 92 ; for Report of Select Committee, see *ibid.*, 1911, Pt. V, p. 1 ; and for Proceedings in Council, see *ibid.*, 1910, Pt. VI, p. 337, dated 9th April, 1910, and *ibid.*, 1911, Pt. VI, pp. 31, 45, 179.

² Subs. by the A. O. for original cl. (1).

Legal Proceedings.

SECTIONS.

- 53. Piracy of registered design.
- 54. Application of certain provisions of the Act as to Patents and Designs.

PART III.

GENERAL.

Patent Office and Proceedings thereat.

- 55. Patent Office.
- 56. Officers and clerks.

Fees.

- 57. Fees.

Provisions as to Registers and other Documents in the Patent Office.

- 58. Notice of trust not to be entered in registers.
- 59. Inspection of and extracts from registers.
- 60. Privilege of reports of Controller.
- 61. Prohibition of publication of specification, drawings, etc., where application abandoned, etc.
- 62. Power for Controller to correct clerical errors.
- 63. Entry of assignments and transmissions in registers.
- 64. Rectification of register.

Powers and Duties of Controller.

- 65. Powers of Controller in proceedings under Act.
- 66. Publication of patented inventions.
- 67. Exercise of discretionary power by Controller.
- 68. Power of Controller to take directions of the Central Government.
- 69. Refusal to grant patent, etc., in certain cases.
- 70. Appeals to the Central Government.

Evidence, etc.

- 71. Certificate of Controller to be evidence.
- 72. Transmission of certified printed copies of specifications, etc.
- 73. Applications and notices by post.
- 74. Declaration by infant, lunatic, etc.
- 74A. Security for costs.

Agency.

- 75. Subscription and verification of certain documents.
- 76. Agency.

(Part I.—Patents.)

PART I.

PATENTS.

Application for and Grant of Patent.

3. (1) An application for a patent may be made by any person whether Application. he is a British subject or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by a specification and by the prescribed fee.

(4) Where the true and first inventor is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

4. (1) The specification must particularly describe and ascertain the Specification.] nature of the invention and the manner in which the same is to be performed.

(2) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the application, and such drawings shall be deemed to form part of the specification.

(3) The specification must commence with the title, and must end with a distinct statement of the invention claimed.

(4) If in any particular case the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

5. (1) The Controller shall examine every application, and if he considers that— Proceedings upon application.

- (a) the nature of the invention is not fairly described, or
- (b) the application, specification and drawings have not been prepared in the prescribed manner ¹* * *, or
- (c) the title does not sufficiently indicate the subject-matter of the invention, or
- (d) the statement of claim does not sufficiently define the invention, or

¹ The words "or relate to more than one invention" rep. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 3.

(Preliminary.)

(4) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered :

¹[(5) "design" means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye ; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in Section 478, or property mark as defined in section 479 of the Indian Penal Code :] XLY of 1860.

(6) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure, 1908 : Y of 1908.

(7) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1898, in reference to proceedings against European V of 1898. British subjects :

(8) "invention" means any manner of new manufacture and includes an improvement and an alleged invention :

(9) "legal representative" means a person who in law represents the estate of a deceased person :

(10) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :

(11) "patent" means a patent granted under the provisions of this Act :

¹[(12) "patentee" means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent :]

(13) "prescribed" includes prescribed by rules under this Act : and

(14) "proprietor of a ²[new or original] design,"—

(a) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed ; and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired ; and

(c) in any other case, means the author of the design ;

and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

¹ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 2, for the original clause.

² Subs. by s. 2, *ibid.*, for "new and original".

(Part I.—Patents.)

(e) the invention as described and claimed is *prima facie* not a new manufacture or improvement, ¹[or

(f) the specification relates to more than one invention,]

he may refuse to accept the application or require that the application, specification or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the Controller so directs, bear date as from the time when the requirement is complied with:

¹[Provided that, when a specification comprises more than one invention, the application shall, if the Controller or the applicant so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction.]

(2) Where the Controller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the ²[Central Government].

(3) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the ²[Central Government] or any officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(4) Unless an application is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void:

³[Provided that where, before, or within three months after, the expiration of the said period of twelve months, a request is made to the Controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, during, but not beyond, the period of extension so requested.]

6. On the acceptance of an application the Controller shall give notice thereof to the applicant and shall advertise the acceptance; and the application and specification with the drawings (if any) shall be open to public inspection.

7. Where an application for a patent in respect of an invention has been accepted, any use or publication of the invention during the period between the date of application and the date of sealing such patent shall not prejudice the patent to be granted for the invention:

¹ Ins. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 3.

² Subs. by the A. O. for "G. G. in C."

³ Subs. by Act 7 of 1930, s. 3, for the original proviso.

(Part I.—Patents.)

12. (1) A patent sealed with the seal of the Patent Office shall, subject to the other provisions of this Act, confer on the patentee the exclusive privilege of making, selling and using the invention throughout British India and of authorizing others so to do. Effect, extent and form of patent.

(2) Every patent may be in the prescribed form and shall be granted for one invention only, but the specification may contain more than one claim ; and it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

13. (1) A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him, or by protection obtained thereon or by any use or publication of the invention subsequent to that fraudulent application during the period of protection. Fraudulent applications for patents.

¹[(2) Where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under section 9 on the ground stated in clause (a) of sub-section (1) of that section, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted :

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.]

Term of Patent.

14. (1) The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be ²[sixteen] years from its date. Term of patent.

³[(1A) Any patent the original term of which had not expired on or before the 1st day of July, 1930, shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any license existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1B) Where any party to a contract with the patentee or any other person entered into before the 1st day of January, 1930, is subjected to loss or liability by reason of the extension of the term of any patent under this section,

¹ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 8, for the original sub-section.

² Subs. by s. 9, *ibid.*, for "fourteen".

³ Ins. by s. 9, *ibid.*

(Part I.—Patents.)

(b) disputes arise between joint applicants as to proceeding with an application,

the Controller, if he is satisfied of the existence of such agreement or, in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them, as the case may be :

Provided that—

- (i) the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and
- (ii) an appeal from any such direction shall lie to the ¹[Central Government].]

(2) A patent shall be sealed as soon as may be, and not after the expiration of eighteen months from the date of application :

Provided that,—

- (a) where the Controller has allowed an extension of the time within which an application may be accepted, a further extension of four months after the said eighteen months shall be allowed for the sealing of the patent ;
- (b) where the sealing is delayed by an appeal to the ¹[Central Government] ²* * * * or by opposition to the grant of the patent, the patent may be sealed at such time as the Controller may direct ;
- (c) where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death ;
- (d) where ³[for any reason] a patent cannot be sealed within the period allowed by ⁴[any of the foregoing provisions of] this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended ⁵[to the extent applied for but not exceeding three months.]

11. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application :

Provided that no proceedings shall be taken in respect of an infringement committed before the ⁶[advertisement of the acceptance of the application].

¹ Subs. by the A. O. for " G. G. in C."

² The words " or by a reference under section 8 " rep. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 6.

³ Subs. by s. 6, *ibid.*, for " in consequence of the neglect or failure of the applicant to pay any fee ".

⁴ Ins. by s. 6, *ibid.*

⁵ Subs. by s. 6, *ibid.*, for " to such an extent as may be prescribed ".

⁶ Subs. by s. 7, *ibid.*, for " publication of the specification ".

(Part I.—Patents.)

term not exceeding ¹[five] or, in exceptional cases, ²[ten] years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction, conditions and provisions which the ³[Central Government] or the High Court, as the case may be, may think fit :

Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Act, cease if the inventor fails to pay before the expiration of each year the prescribed fee.

⁴[15A. (1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and, if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid. Patents of addition.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal :

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.]

16. (1) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Controller in the prescribed manner for an order for the restoration of the patent. Restoration of lapsed patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional or unavoidable and that no undue delay has occurred in the making of the application, the Controller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office.

¹ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 10, for "seven".

² Subs. by s. 10, *ibid.*, for "fourteen".

³ Subs. by the A. O. for "G. G. in C."

⁴ Ins. by Act 7 of 1930, s. 11.

(Part I.—Patents.)

any District Court having jurisdiction may determine in what manner and by which parties such loss or liability shall be borne.]

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times :

¹[Provided that where the patentee, before, or within three months after, the expiration of the time for payment, applies to the Controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for.]

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

1 of 15. (1) A patentee may ²* * * present a petition to the ³[Central Government] praying that his patent may be extended for a further term ; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee ⁴[and must be advertised by the patentee within the prescribed time and in the prescribed manner.]

(2) Any person may ⁴[within such time as may be prescribed and on payment of the prescribed fee] give notice to the Controller of objection to the extension.

(3) Where a petition is presented under sub-section (1), the ³[Central Government] may, as ⁵[it] thinks fit, dispose of the petition ⁶[itself] or refer it to a High Court for decision.

(4) If the petition be referred to a High Court, then on the hearing of such petition under this section, the patentee, and any person who has given notice under sub-section (2) of objection, shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The Court to which the petition is referred shall, in considering its decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(6) If it appears to the ³[Central Government] or to the High Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the ³[Central Government] or the High Court, as the case may be, may by order extend the term of the patent for a further

¹ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 9, for the original proviso.

² The words " after advertising in the prescribed manner his intention to do so " rep. by s. 10, *ibid*.

³ Subs. by the A. O. for " G. G. in C."

⁴ Ins. by Act 7 of 1930, s. 10.

⁵ Subs. by the A. O. for " he ".

⁶ Subs. by the A. O. for " himself ".

(Part I.—Patents.)

(9) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

18. In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent the Court may by order allow the patentee to amend his specification by way of disclaimer ¹[correction or explanation] in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit: Amendment of specification by the Court.

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the Court notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

19. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act, no damages shall be given in any suit in respect of the use of the invention ²[before the date of the decision allowing the amendment] unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge. Restriction on recovery of damages.

Register of Patents.

20. (1) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of Patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendment, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed. Register of Patents.

(2) The register of inventions and address book existing at the commencement of this Act shall be incorporated with, and form part of, the register of patents under this Act.

(3) The register of patents shall be *primâ facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(4) Copies of deeds, licenses and any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office 3* * * * *

¹ Ins. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 12.

² Subs. by s. 13, *ibid.*, for "before the disclaimer, correction or explanation".

³ The words "and, unless such copies have been so supplied, such deeds, licenses or other documents shall not be received as evidence of any transaction affecting a patent" rep. by s. 14, *ibid.*

(Part I.—Patents.)

(4) Where such notice is given the Controller shall notify the applicant thereof.

(5) After the expiration of the prescribed period the Controller shall hear the case and, subject to an appeal to the ¹[Central Government] issue an order either restoring the patent subject to any conditions ²[and restrictions] deemed to be advisable or dismissing the application :

Provided that in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased.

Amendment of Application or Specification.

17. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office and accompanied by the prescribed fee, seek leave to amend his application or specification, including drawings forming part thereof, by way of disclaimer, correction or explanation, stating the nature of, and the reasons for, the proposed amendment.

(2) If the application for a patent has not been accepted, the Controller shall determine whether and subject to what conditions (if any) the amendment shall be allowed.

(3) In any other case the request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within three months from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(4) Where such a notice is given the Controller shall give notice of the opposition to the person making the request, and shall hear and decide the case.

(5) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) The decision of the Controller in either case shall be subject to an appeal to the ¹[Central Government.]

(7) No amendment shall be allowed that would make the application or specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the application or specification as it stood before amendment.

(8) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud ; and the amendment shall be advertised in the prescribed manner, and shall in all Courts and for all purposes be deemed to form part of the application or specification.

¹ Subs. by the A. O. for " G. G. in C. "

² Ins. by the Second Repealing and Amending Act, 1914 (17 of 1914), s. 2 and Sch. I.

(Part I.—Patents.)

deration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from the Crown or from such officers or authorities in respect of such patent :

Provided that, if the inventor or patentee is a Government servant and the subject-matter of the invention is certified by the ¹[Central Government] or ²[Provineial Government] to be connected with work done in the course of such service, any such dispute shall be settled by the ¹[Central Government] after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Crown under the provisions of this section, or any provisions for which this section is substituted, shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Crown.

(6) Nothing in this section shall affect the right of the Crown or of any person deriving title directly or indirectly from the Crown to sell or use any articles forfeited under any law for the time being in force relating to customs or excise.

³21A. (1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the ⁴[Central Government] on behalf of His Majesty all the benefit of the invention and of any patent obtained or to be obtained for the invention ; and the ⁴[Central Government] may be a party to the assignment.

Assignment
of patent
to the
Central
Government.

(2) The assignment shall effectually vest the benefit of the invention and patent in the ⁴[Central Government] on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by or on behalf of the ⁴[Central Government].

(3) Where any such assignment has been made, the ¹[Central Government] may, at any time before the publication of the specification, certify to the Controller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the ¹[Central Government] so certify, the application and specifications, with the drawings (if any) and any amendment of the specification and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Controller in a packet sealed by authority of the ¹[Central Government].

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the A. O. for "L. G."

³ See foot-note 1 on preceding page.

⁴ Subs. by the A. O. for "Secretary of State for India in Council".

(Part I.—Patents.)

Crown.

¹[21. (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against His Majesty the King as it has against a subject.

(2) The officers or authorities administering any department of the service of His Majesty may, by themselves or by such of their agents, contractors or others as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the ²[Central Government], between such officers or authorities and the applicant or patentee, or, in default of agreement, as may be settled in the manner hereinafter provided. And the terms of any agreement or license concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative so far as concerns the making, use or exercise of the invention for the service of the Crown.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of His Majesty (such invention not having been communicated directly or indirectly by the applicant or patentee), such officers or authorities, or such of their agents, contractors, or others, as may be authorised in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Crown, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee, as the case may be, of the document recording the invention, or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee, or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consi-

¹ Ss 21 and 21A were substituted by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 15, for the original s. 21.

² Subs. by the A. O. for "G. G. in C."

(Part I.—Patents.)

for the grant of a compulsory license, or, in the alternative, for the revocation of the patent.

(2) The ¹[Central Government] shall consider the petition, and if the parties do not come to an arrangement between themselves the ¹[Central Government] may, as ²[it] thinks fit, either dispose of the petition ³[itself] or refer it to a High Court for decision.

(3) The provisions of sub-section (4) of section 15, prescribing the procedure to be followed in the case of references to the Court under that section, shall apply in the case of references made to the Court under this section.

(4) If the ¹[Central Government] is of opinion, or, where a reference has been made under sub-section (2) to a High Court, that Court finds that ⁴[the demand for the patented article in British India is not being met to an adequate extent and on reasonable terms], the patentee may be ordered to grant licenses on such terms as the ¹[Central Government] or the High Court, as the case may be, may think just, or, if the ¹[Central Government] or the High Court is of opinion that ⁵[the demand will not be adequately met] by the grant of licenses, the patent may be revoked by order of the ¹[Central Government] or the High Court :

Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(5) For the purposes of this section “[the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms]—

(a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in British India is unfairly prejudiced ⁷* * * or,

(b) if any trade or industry in British India is unfairly prejudiced by the conditions attached by the patentee ⁸* * * to the purchase, hire or use of the patented article or to the using or working of the patented process.

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¹ Subs. by the A. O. for “ G. G. in C.”

² Subs. by the A. O. for “ he ”.

³ Subs. by the A. O. for “ himself ”.

⁴ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 16, for “ the reasonable requirements of the public with reference to the patented invention have not been satisfied ”.

⁵ Subs. by s. 16, *ibid.*, for “ the reasonable requirements of the public will not be satisfied ”.

⁶ Subs. by s. 16, *ibid.*, for “ the reasonable requirements of the public shall not be deemed to have been satisfied ”.

⁷ The words “ or the demand for the patented article or the article produced by the patented process is not reasonably met ” rep. by s. 16, *ibid.*

⁸ The words “ before or after the commencement of this Act ” rep. by s. 16, *ibid.*

⁹ Sub-section (6) rep. by s. 16, *ibid.*

(Part I.—Patents.)

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Controller, and shall not be opened save under the authority of an order of the ¹[Central Government].

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the ¹[Central Government] to receive it, and shall, if returned to the Controller, be again kept sealed by him.

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the ¹[Central Government].

(8) Where the ¹[Central Government] certifies as aforesaid after an application for a patent has been left at the Patent Office but before the publication of the specification, the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Controller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the ¹[Central Government].

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the ¹[Central Government] as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as otherwise provided in this section, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The ¹[Central Government] may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State for India in Council or the ¹[Central Government] or to any person or persons authorised by the Secretary of State for India in Council or the ¹[Central Government] to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.]

Compulsory Licenses and Revocation.

22. (1) Any person interested may present a petition to the ¹[Central Government] which shall be left at the Patent Office, together with the prescribed fee, alleging that ²[the demand for a patented article in British India is not being met to an adequate extent and on reasonable terms] and praying

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 16, for "the reasonable requirements of the public with respect to a patented invention have not been satisfied".

(Part I.—Patents.)

shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and executed by the patentee and all other necessary parties.]

24. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent. Power of Controller to revoke surrendered patent.

25. A patent shall be deemed to be revoked if the ¹[Central Government] declares, by notification in the ²[Official Gazette] the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public. Revocation of patent on public grounds.

Legal Proceedings.

26. (1) Revocation of a patent in whole or in part may be obtained on petition to a High Court on all or any of the following grounds, namely :— Petition for revocation of patent.

- (a) that any invention included in the statement of claim is of no utility ;
- (b) that any invention included in the statement of claim was not, at the date of the application for a patent, a new invention within the meaning of this Act ;
- (c) that the applicant was not the true and first inventor thereof or the assign or legal representative of such inventor thereof ;
- (d) that the original or any amended application or specification does not fulfil the requirements of this Act ;
- (e) that the applicant has knowingly or fraudulently included in the application for a patent or in the original or any amended specification, as his invention, something which was not new or whereof he was neither the inventor nor the assign nor the legal representative of such inventor ;
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement ;
- (g) that ³[the whole or a part] of the invention or the manner in which ³[the whole or a part] is to be made and used as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent or is injurious to the public.

(2) A petition for revocation of a patent may be presented—

- (a) by the Advocate General or any person authorized by him ; or

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the A. O. for "Gazette of India".

³ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 19, for "a part".

(Part I.—Patents.)

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s
ndia. 23. (1) At any time not less than four years after the date of a patent granted under this Act, any person may apply to the ¹[Central Government] ²[for relief under this section] on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside British India.

(2) The ¹[Central Government] shall consider the application, and, if after inquiry ³[it] is satisfied—

(a) that the allegations contained therein are correct; and

(b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in British India; and

(c) that the patentee refuses to grant a license on reasonable terms,

then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in British India, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the ¹[Central Government] may make an order—

⁴[(a)] revoking the patent either—

(i) forthwith; or

(ii) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to ⁵[its] satisfaction that the patented article or process is manufactured or carried on within British India to an adequate extent; ⁴[or

(b) ordering the patentee to grant a license to the applicant which may be a license exclusive to him or otherwise as the ¹[Central Government] may direct.]

(3) No order revoking a patent shall be made under the last sub-section which is at variance with any treaty, convention, arrangement or engagement with any foreign country or British possession.

(4) The ¹[Central Government] may, on the application of the patentee, extend the time limited in any order made under sub-section (2), clause (ii), for such period not exceeding two years as ³[it] may specify in a subsequent order, or revoke any order made under sub-section (2), clause (ii), or any subsequent order if sufficient cause is in ⁵[its] opinion shown by the patentee.

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or ⁶[23A. An order of the High Court under section 22 or of the ¹[Central Government] under section 22 or section 23, directing the grant of any license

¹ Subs. by the A. O. for "G. G. in C."

for ² Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 17, for "for the revocation of the patent".

³ Subs. by the A. O. for "he".

⁴ Ins. by Act 7 of 1930, s. 17.

⁵ Subs. by the A. O. for "his".

⁶ Ins. by Act 7 of 1930, s. 18.

(Part I.—Patents.)

23. (1) At any time not less than four years after the date of a patent granted under this Act, any person may apply to the ¹[Central Government] ²[for relief under this section] on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside British India.

(2) The ¹[Central Government] shall consider the application, and, if after inquiry ³[it] is satisfied—

(a) that the allegations contained therein are correct; and

(b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in British India; and

(c) that the patentee refuses to grant a license on reasonable terms,

then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in British India, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the ¹[Central Government] may make an order—

⁴[(a)] revoking the patent either—

(i) forthwith; or

(ii) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to ⁵[its] satisfaction that the patented article or process is manufactured or carried on within British India to an adequate extent; ⁴[or

(b) ordering the patentee to grant a license to the applicant which may be a license exclusive to him or otherwise as the ¹[Central Government] may direct.]

(3) No order revoking a patent shall be made under the last sub-section which is at variance with any treaty, convention, arrangement or engagement with any foreign country or British possession.

(4) The ¹[Central Government] may, on the application of the patentee, extend the time limited in any order made under sub-section (2), clause (ii), for such period not exceeding two years as ³[it] may specify in a subsequent order, or revoke any order made under sub-section (2), clause (ii), or any subsequent order if sufficient cause is in ⁵[its] opinion shown by the patentee.

⁶[23A. An order of the High Court under section 22 or of the ¹[Central Government] under section 22 or section 23, directing the grant of any license

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 17, for "for the revocation of the patent".

³ Subs. by the A. O. for "he".

⁴ Ins. by Act 7 of 1930, s. 17.

⁵ Subs. by the A. O. for "his".

⁶ Ins. by Act 7 of 1930, s. 18.

(Part I.—Patents.)

(2) Every ground on which a patent may be revoked under this Act shall be available by way of defence to a suit for infringement.

30. A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word “patent,” “patented,” or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent :

Exemption of innocent infringer from liability for damages.

Provided that nothing in this section shall affect any proceedings for an injunction.

31. In a suit for infringement of a patent, the Court may, on the application of either party, make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon, as the Court may see fit.

Order for inspection, etc., in suit.

32. In a suit for infringement of a patent the Court may certify that the validity of the patent came in question, and if the Court so certifies, then in any subsequent suit in that Court for infringement of the same patent the plaintiff, on obtaining a final order or judgment in his favour, shall, unless the Court trying the suit otherwise directs, have his full costs, charges and expenses of and incidental to the said suit properly incurred.

Certificate of validity questioned and costs thereon.

33. A Court making a decree in a suit under section 29 or an order on a petition under section 26 shall send a copy of the decree or order, as the case may be, to the Controller, who shall cause an entry thereof and reference thereto to be made in the register of patents.

Transmission of decrees and orders to the Controller.

34. A High Court to which a petition has been presented under section 26 may stay proceedings on or dismiss the petition if in its opinion the petition would be disposed of more justly or conveniently by another High Court.

Power of High Court to stay proceedings, etc.

35. (1) In a suit or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall on the request of ¹[all] the parties to the proceedings, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance.

Hearing with assessor.

(2) A Court exercising appellate jurisdiction in respect of such suit or proceeding may, if it thinks fit, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall in every case be determined by the Court and be paid by it as part of the expenses of the execution of this Act.

²[35A. Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the

Grant of relief in respect of

¹ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 20, for “either of”.

² Ins. by s. 21, *ibid.*

(Part I.—Patents.)

(b) by any person alleging—

- (i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims; or
- (ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee; or
- (iii) that he, or any person under or through whom he claims an interest in any trade, business or manufacture, had publicly manufactured, used or sold, within British India, before the date of the patent, anything claimed by the patentee as his invention.

(3) The High Court may, irrespective of any provisions of the Code of Civil Procedure, 1908, in this behalf, require any person, other than the Advocate General or any person authorized by him, applying for the revocation of a patent to give security for the payment of all costs incurred or likely to be incurred by any person appearing to oppose the petition.

27. (1) Notice of any petition for revocation of a patent under section 26 shall be served on all persons appearing from the register to be proprietors of that patent or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post in a registered letter directed to the person and place for the time being stated in the register.

28. (1) A High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question arising upon a petition to itself under section 26, and the issue shall be tried accordingly.

(2) If the issue is directed to another High Court, the finding shall be certified by that Court to the High Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court directing the issue, and the High Court may thereupon act upon the finding of the District Court, or dispose of the petition upon the evidence recorded, or direct a new trial, as the justice of the case may require.

29. (1) A patentee may institute a suit in a District Court having jurisdiction to try the suit against any person who, during the continuance of a patent acquired by him under this Act in respect of an invention, makes, sells or uses the invention without his license, or counterfeits it, or imitates it.

(Part I.—Patents.)

(2) The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of this Act if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or has been communicated to the public in fraud of such inventor or in breach of confidence :

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for a patent.

39. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on payment of the prescribed fee, seal a duplicate thereof. Loss or destruction of patent.

40. (1) The exhibition of an invention at an industrial or international exhibition, certified as such by the ¹[Central Government], or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application : Provisions as to exhibitions.

Provided that—

(a) the exhibitor, before exhibiting the invention, gives the Controller the prescribed notice of his intention to do so ; and

(b) the application for a patent is made before or within six months from the date of the opening of the exhibition.

(2) The ¹[Central Government] may, by notification in the ²[Official Gazette], apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the ¹[Central Government], and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

41. The trustees of the Indian Museum may at any time require a patentee to furnish them with a model or sample of his invention on payment to the patentee of the cost of the manufacture of the model or sample, the amount to be settled, in case of dispute, by the ¹[Central Government]. Models to be furnished to Indian Museum.

42. (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any Court in Foreign vessels in British

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the A. O. for "Gazette of India".

³ The provisions of s. 42 apply to the use of an invention on aircraft not registered in British India in like manner as they apply to the use of an invention in a foreign vessel,—see the Indian Aircraft Act, 1934 (22 of 1934), s. 15.

(Part I.—Patents.)

claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there.]

36. Where any person claiming ¹[to have an interest in a patent] by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of ²[the patent]:

³[Provided that this section shall not apply if an action for infringement of the patent is commenced and prosecuted with due diligence.]

Miscellaneous.

37. Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his legal representatives.

38. (1) An invention shall be deemed a new invention within the meaning of this Act—

- (a) if it has not, before the date of the application for a patent thereon, been publicly used in any part of British India, or been made publicly known in any part of British India, and
- (b) if the inventor has not by secret or experimental user made direct or indirect profits from his invention in excess of such an amount as the Court or the ⁴[Central Government], as the case may be, may, in consideration of all the circumstances of the case, deem reasonable.

¹ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 22 for

“to be the patentee of an invention”.

² Subs. by s. 22, *ibid.*, for “any legal rights of the person making such threats”.

³ Subs. by s. 22, *ibid.*, for original proviso.

⁴ Subs. by the A. O. for “G. G. in C.”

(Part II.—Designs.)

¹[Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration.]

45. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered. Certificate of registration.

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

46. (1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed. Register of Designs.

(2) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.

(3) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorized to be entered therein.

Copyright in Registered Designs.

47. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration. Copyright on registration.

(2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

48. (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall— Requirements before delivery on sale.

(a) (if exact representations or specimens were not furnished on the application for registration), furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease; and

(b) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures, denoting that the design is registered; and, if he fails to do so, the proprietor shall not

¹ Ins. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 23.

(Part I.—Patents. Part II.—Designs.)

British India, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from British India.

(2) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in British vessels while in the ports of that State, or in the waters within the jurisdiction of its Courts.

PART II.

DESIGNS.

Registration of Designs.

43. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in British India, register the design under this Part.

(2) The application must be made in the prescribed form and must be left at the Patent Office in the prescribed manner and must be accompanied by the prescribed fee.

(3) The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.

(4) The Controller may, if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal to the ¹[Central Government].

(5) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(6) A design when registered shall be registered as of the date of the application for registration.

44. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

(a) on the ground of the design not being a ²[new or original design,] by reason only that it was so previously registered; or

(b) on the ground of the design having been previously published in British India, by reason only that it has been applied to goods of any class in which it was so previously registered:

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 23, for "new and original design".

(Part II.—Designs.)

fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

¹[51A. (1) Any person interested may present a petition for the cancellation of the registration of a design—

Cancellation
of registra-
tion.

(a) at any time after the registration of the design, to the High Court on any of the following grounds, namely :—

- (i) that the design has been previously registered in British India ; or
 - (ii) that it has been published in British India prior to the date of registration ; or
 - (iii) that the design is not a new or original design ; or
- (b) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (i) and (ii) of clause (a).

(2) An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

51B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs.]

Registration
of designs to
bind the
Crown.

Industrial and International Exhibitions.

52. (1) The exhibition at an industrial or international exhibition certified as such by the ²[Central Government], or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof:

Provisions
as to exhibi-
tions.

Provided that—

- (a) the exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the Controller the prescribed notice of his intention to do so ; and
- (b) the application for registration is made before or within six months from the date of the opening of the exhibition.

(2) The ²[Central Government] may, by notification in the ³[Official Gazette], apply this section to any exhibition mentioned in the notification

¹ Ss. 51A and 51B ins. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 24.

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "Gazette of India".

(Part III.—General.)

PART III.

GENERAL.

Patent Office and Proceedings thereat.

55. (1) The ¹[Central Government] may provide for the purposes of this Patent Act, an office which shall be called, and is in this Act referred to as, the Patent Office.

(2) The Patent Office shall be under the immediate control of the Controller of Patents and Designs, who shall act under the superintendence and direction of the ¹[Central Government].

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorized by the ¹[Central Government].

56. The ¹[Central Government] may appoint the Controller, and so many Officers and officers and clerks, with such designations and duties, as ²[it] thinks fit. clerks.

Fees.

57. (1) There shall be paid in respect of the grant of patents and the re- Fees. gistration of designs, and applications therefor, and in respect of other matters with relation to the patents and designs under this Act, such fees as may be prescribed by the ¹[Central Government], so however that the fees prescribed in respect of the instruments and matters mentioned in the schedule shall not exceed those there specified.

(2) A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid.

Provisions as to Registers and other Documents in the Patent Office.

58. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust, expressed, implied or constructive. Notice of trust not to be entered in registers.

59. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act ; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee. Inspection of reports of Controller. and extracts from registers.

60. Reports of or to the Controller made under this Act shall not in any ease be published or be open to public inspection. Privilege of reports of Controller.

61. (1) Where an application for a patent has been abandoned or become void, the specifications and drawings (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly Prohibition of publication of specification, drawings,

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the A. O. for "he".

(Part II.—Designs.)

in like manner as if it were an industrial or international exhibition certified as such by the ¹[Central Government], and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

Legal Proceedings.

53. (1) During the existence of copyright in any design it shall not be lawful for any person—

(a) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied ;
or,

(b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

(a) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt, or

(b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly :

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed one thousand rupees.

(3) When the Court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.

54. The provisions of this Act with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

¹ Subs. by the A. O. for "G. G. in C."

(Part III.—General.)

73. Any application, notice or other document authorized or required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Act, may be sent by post. Applications and notices by post.

74. (1) If any person is, by reason of infancy, lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or if there be none, any person appointed by any Court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability. Declaration by infant, lunatic, etc.

(2) An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

¹[74A. Where a person giving notice of any opposition under this Act or giving notice to the Court of appeal from any decision of the Controller under this Act, neither resides nor carries on business in British India, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the appeal.] Security for costs.

Agency.

75. The following documents, namely,—

- (1) applications for a patent,
- (2) notices of opposition,
- (3) applications for extension of term of a patent,
- (4) applications for the restoration of lapsed patents,
- (5) applications for leave to amend,
- (6) applications for compulsory license or revocation, and
- (7) notices of surrenders of patent,

shall be signed and verified, in the manner prescribed, by the person making such applications or giving such notices :

Provided that, if such person is absent from British India, they may be signed and verified on his behalf by an agent resident in British India authorized by him in writing in that behalf.

Subscription and verification of certain documents.

¹ Ins. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 30.

(Part III.—General.)

67. Where any discretionary power is by or under this Act given to the Controller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application or of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

68. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the ¹[Central Government] for directions in the matter.

69. ²[(1)] The Controller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality.

³[(2)] An appeal shall lie to the ¹[Central Government] from an order of the Controller under this section.]

70. (1) Where an appeal is declared by this Act to lie from the Controller to the ¹[Central Government], the appeal shall be made within ⁴[three] months of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.

(2) In calculating the said period of ⁴[three] months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The ¹[Central Government] may, if ⁵[it] thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the ¹[Central Government] shall be final.

Evidence, etc.

71. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Act, or any rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

72. Copies of all specifications, drawings and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted as soon as may be, after they have been accepted or allowed at the Patent Office, to ⁶[the Provincial Governments of Madras and Bombay] and to such other authorities as the ¹[Central Government] may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

¹Subs. by the A. O. for "G. G. in C."

²The original s. 69 was re-numbered as sub-section (1) of that section by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 28.

³Sub-section (2) ins. by s. 28, *ibid.*

⁴Subs. by s. 29, *ibid.* for "two".

⁵Subs. by the A. O. for "he".

⁶Subs. by the A. O. for "the Governor of Fort St. George in Council, the Governor of Bombay in Council, the Lieutenant Governor of Burma".

(Part III.—General.)

(f) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Act placed under the direction or control of the Controller or of the ¹[Central Government]; and

(g) generally for the purpose of carrying into effect the provisions of this Act.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

²[(2A) Nothing in sub-section (2) shall apply in the case of rules made for the purpose specified in clause (eee) of sub-section (1); and any such rules may modify any of the provisions of this Act so far as may be necessary for that purpose.]

(3) All rules made under this section shall be published in the ³[Official Gazette], and on such publication shall have effect as if enacted in this Act.

Offences.

78. If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor.

Wrongful use of words "Patent Office".

⁴[Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.

78A. (1) If His Majesty is pleased by Order in Council to apply such of the provisions of section 91 of the Patents and Designs Act, 1907, as relate to inventions or designs, to British-India, then any person who has applied for protection for any invention or design in the United Kingdom, ⁵[or his legal representative or assignee] shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have the same date as the date of the application in the United Kingdom:

Reciprocal arrangements with the United Kingdom and other parts of His Majesty's dominions.

Provided that—

(a) the application is made in the case of a patent within twelve months, and, in the case of a design, within ⁶[six] months from the application for protection in the United Kingdom: and

¹Subs. by the A. O. for "G. G. in C."

²Ins. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 31.

³Subs. by the A. O. for "Gazette of India".

⁴The heading and s. 78A were ins. by the Indian Patents and Designs (Amendment) Act, 1920 (29 of 1920), s. 2.

⁵Ins. by the Repealing and Amending Act, 1923 (11 of 1923), s. 2 and Sch. I.

⁶Subs. by Act 7 of 1930, s. 32, for "four".

(Part III.—General.)

76. (1) All other applications and communications to the Controller under this Act may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent authorised to the satisfaction of the Controller.

(2) The Controller may, if he sees fit, require—

- (a) any such agent to be resident in British India ;
- (b) any person not residing in British India to employ an agent residing in British India ;
- (c) the personal signature or presence of any applicant, opponent or other person.

Powers, etc. of ¹[Central Government].

77. (1) The ¹[Central Government] may make such rules² as ³[it] thinks expedient subject to the provisions of this Act—

- (a) for regulating the practice of registration under this Act ;
- (b) for classifying goods for the purposes of designs ;
- (c) for making or requiring duplicates of specifications, drawings and other documents ;
- (d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the ¹[Central Government] thinks fit, of specifications, drawings and other documents ;
- (e) for securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office ; and providing for the inspection of indexes and abridgments and other documents ;
- ⁴[(ee) for the manner in which fees leviable under this Act may be paid ;
- (eee) for ensuring secrecy with respect to patents to which section 21A applies ;]

¹ Subs. by the A. O. for " G. G. in C."

² For the Indian Patents and Designs Rules, 1933, see Gazette of India, Pt. II, dated 11th February, 1933.

³ Subs. by the A. O. for " he ".

⁴ Ins. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 31..

(The Schedule.)

Army.

THE SCHEDULE.

(See section 57.)

FEES.

	Rs.
On application for a patent	10
Before sealing a patent	30
Before the expiration of the 4th year from the date of the patent	50
Before the expiration of the 5th year from the date of the patent	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	¹ [100]
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100
Before the expiration of the 11th year from the date of the patent	100
² [Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that the fees for two or more years may be paid in advance.	
On application to extend the term of a patent	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15	150
On application for registration of a design	3]

THE INDIAN ARMY ACT, 1911.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and commencement.

Application of Act.

2. Persons subject to Act.
3. Special provision as to rank in certain cases.

¹ Subs. by the Indian Patents and Designs (Amendment) Act, 1930 (7 of 1930), s. 33, for "50".

² Subs. by s. 33, *ibid.* for the original entries.

SECTIONS.

- 21. Collective fines.
- 22. Punishment of certain Indian followers.

Provost-Marshals.

- 23. Appointment.
- 24. Duties and powers.

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

- 25. Offences punishable with death.
- 26. Offences not punishable with death.

Mutiny and Insubordination.

- 27. Offences punishable with death.
- 28. Offences not punishable with death.

Desertion, Fraudulent Enrolment and Absence without Leave.

- 29. Desertion.
- 30. Harboursing deserter, absence without leave, etc.

Disgraceful Conduct.

- 31. Disgraceful conduct.

Intoxication.

- 32. Intoxication.

Offences in relation to Persons in Custody.

- 33. Offences punishable with death.
- 34. Offences not punishable with death.

Offences in relation to Property.

- 35. Offences in relation to property.

Offences in relation to False Documents and Statements.

- 36. False accusations and offences in relation to documents.
- 37. False answers on enrolment.

Offences in relation to Courts-martial.

- 38. Offences in relation to courts-martial.

SECTIONS.

- 56. Contents of warrant issued under section 54 or section 55.
- 57. Composition of general courts-martial.
- 58. Composition of district courts-martial.
- 59. [*Repealed.*]
- 60. Composition of general, summary general or district court-martial.
- 61. [*Repealed.*]
- 62. Convening of summary general courts-martial.
- 63. Composition of summary general courts-martial.
- 64. Summary courts-martial.
- 65. Dissolution of courts.

Jurisdiction of Courts-martial.

- 66. Prohibition of second trial.
- 67. Limitation of trial.
- 68. Place of trial.

Adjustment of the jurisdiction of Courts-martial and Criminal Courts.

- 69. Order in case of concurrent jurisdiction.
- 70. Power of criminal court to require delivery of offender.
- 71. Trial by court-martial no bar to subsequent trial by criminal court.

Powers of Courts-martial.

- 72. Powers of general and summary general courts-martial.
- 73. Powers of district court-martial.
- 74. Offences triable by summary court-martial.
- 75. Persons triable by summary court-martial.
- 76. Sentences awardable by summary court-martial.

Procedure at Trials by Courts-martial.

- 77. President.
- 78. Judge Advocate.
- 79. [*Repealed.*]
- 80. Challenges.
- 81. Voting of members.
- 82. Oaths of president and members.
- 83. Oaths of witnesses.
- 84. Summoning witnesses and production of documents.
- 85. Commissions.
- 86. Conviction of one offence permissible on charge of another.
- 87. Majority requisite to sentence of death.

Miscellaneous Military Offences.

SECTIONS.

39. Miscellaneous military offences.

39A. Attempts.

Abetment.

40. Abetment.

Civil Offences.

41. Civil offences committed within or outside British India.

42. [*Repealed.*]

CHAPTER VI.

PUNISHMENTS.

43. Punishments.

44. Lower punishments.

45. Field punishment.

46. Position of field punishment in scale.

47. Combination of punishments.

47A. Cashiering of Indian commissioned officer on conviction.

48. Solitary confinement.

49. Reduction of non-commissioned officers to ranks.

49A. Retention in the ranks of a person convicted on active service.

CHAPTER VII.

PENAL DEDUCTIONS.

50. Deductions from pay and allowances.

51. Deductions from public money other than pay.

52. Remission of deductions.

52A. Provision for dependants of prisoners of war.

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-martial.

53. Courts-martial and the kinds thereof.

54. Power to convene general courts-martial.

55. Power to convene district courts-martial.

CHAPTER XI.

RULES.

SECTIONS.

113. Power to make rules.
-

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS.

114. Property of deceased persons and deserters. Meaning of desertion.
115. Disposal of certain property without production of probate, etc.
116. Application of section 114 to lunatics.
-

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

117. Complaints against officers.
117A. Complaints by Indian commissioned officers.
118. Privileges of persons attending courts-martial.
119. Exemption from arrest for debt.
120. Property exempted from attachment.
121. Application of the last two foregoing sections to reservists.
122. Priority of hearing by courts of cases in which Indian officers and soldiers are concerned.

Deserters and Military Offenders.

123. Capture of deserters.
124. Arrest by military authorities.
125. Arrest by civil authorities.
126. Inquiry on absence of person subject to Act.

Disposal of Property.

- 126A. Order for custody and disposal of property pending trial in certain cases.
126B. Order for disposal of property regarding which offence committed.

Repeal.

127. [Repealed.]
-

SECTIONS.

Evidence before Courts-martial.

- 88. General rule as to evidence.
- 89. Judicial notice.
- 90. Presumption as to signatures.
- 91. Enrolment paper.
- 91A. Presumption as to certain documents.
- 92. Reference by accused to Government officer.
- 93. Evidence of previous convictions and general character.

Confirmation and Revision of Findings and Sentences.

- 94. Finding and sentence invalid without confirmation.
- 95. Power to confirm finding and sentence of general court-martial.
- 96. Power to confirm finding and sentence of district court-martial.
- 97. Contents of warrant issued under section 95 or section 96.
- 98. Confirmation of finding and sentence.
- 99. Power of confirming officer to mitigate, remit or commute sentences.
- 99A. Confirmation of finding and sentence on board ship.
- 100. Revision of finding or sentence.
- 101. Finding and sentence of a summary court-martial.
- 102. Transmission of proceedings of summary courts-martial.
- 103. Substitution of valid for invalid sentence.
- 103A. Provision in the case of accused being lunatic.

CHAPTER IX.

EXECUTION OF SENTENCES.

- 104. Form of sentence of death.
- 105. [*Repealed.*]
- 106. Commencement of sentence of transportation or imprisonment.
- 107. Execution of sentence of transportation or imprisonment.
- 108. Execution of sentence of imprisonment in special cases.
- 108A. Offenders sentenced to transportation how dealt with until transported.
- 109. Communication of certain orders to civil prison officers.
- 110. Limit of solitary confinement.
- 111. [*Repealed.*]
- 111A. Execution of sentence of fine.

CHAPTER X.

PARDONS AND REMISSIONS.

- 112. Pardons and remissions.

(Chapter I.—Preliminary.)

(2) Every person subject to this Act under sub-section (1), clause (a) or (b), shall remain so subject until duly ¹[retired, discharged, cashiered, removed, or dismissed from the service] :

²[Provided that an officer of the Indian Land Forces retired therefrom and appointed to the Indian Regular Reserve of Officers shall again become so subject when ordered on any duty or service for which he is liable as a member of such reserve force.]

3. (1) The ³[Central Government] may, by ⁴notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (1), clause (c), shall be so subject as ⁵[Indian commissioned officers, Vice-roy's commissioned officers], warrant officers or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person and to cancel such direction. Special provision as to rank in certain cases.

(2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

4. Every person subject to this Act under section 2, sub-section (1), clause (c), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment (if any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force : Commanding officer of persons subject to military law under section 2, clause (c).

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

5. (1) The ³[Central Government] may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of the ³[Central Government]. Powers to apply Act to certain forces under the Central Government.

(2) While any of the provisions of this Act apply to any such force, the ³[Central Government] may, by notification, direct by what authority any

¹ Subs. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 3, for "discharged or dismissed".

² Ins. by the Indian Army (Amendment) Act, 1937 (15 of 1937), s. 2.

³ Subs. by the A. O. for "G. G. in C."

⁴ For notification declaring the rank of certain Civil officers when subject to the Act, see Gen. R. & O., Vol. IV, p. 121.

⁵ Subs. by Act 33 of 1934, s. 2, for "Indian officers".

(Chapter I.—Preliminary.)

ACT No. VIII OF 1911.¹

[16th March, 1911.]

An Act to consolidate and amend the law relating to the government of His Majesty's^{2*} Indian Forces.

WHEREAS it is expedient to consolidate and amend the law relating to the government of the ³[Indian commissioned officers, Viceroy's commissioned officers], soldiers and other persons in His Majesty's Indian Forces; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Army Act, 1911.

(2) It shall come into force on such ⁴date as the ⁵[Central Government] may, by notification in the ⁶[Official Gazette], direct in this behalf.

Application of Act.

2. (1) The following persons shall be subject to this Act, namely :—

(a) ³[Indian commissioned officers, Viceroy's commissioned officers] and warrant officers :

⁷[Provided that a person holding a commission in the Army in India Reserve of Officers shall be so subject only when ordered on any duty or service for which he is liable as a member of such reserve force ;]

(b) persons enrolled under this Act ;

(c) persons not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the ⁵[Central Government] by ⁸notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, His Majesty's Forces :

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¹ For Statement of Objects and Reasons, see Gazette of India, 1910, Pt. V, p. 140 ; for Report of Select Committee, see *ibid.*, 1911, Pt. V, p. 39 ; and for Proceedings in Council, see *ibid.*, 1910, Pt. VI, p. 16, dated 13th August, 1910, and *ibid.*, 1911, Pt. VI, pp. 34, 46 and 362.

This Act has been declared to be in force in the Sonthal Parganas by Notification under the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 ; in British Baluchistan by the British Baluchistan Laws Regulations, 1913 (3 of 1913), s. 3 ; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

² The word "Native" rep. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 26 and Sch.

³ Subs. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 2, for "Indian officers".

⁴ The 1st January, 1912, see Gen. R. & O., Vol. IV, p. 120.

⁵ Subs. by the A. O. for "G. G. in C."

⁶ Subs. by the A. O. for "Gazette of India".

⁷ Ins. by the Indian Army (Amendment) Act, 1937 (15 of 1937), s. 2.

⁸ For places declared to be frontier posts under ss. 2(1) and 22, see Gen. R. & O., Vol. IV, p. 120.

⁹ Proviso rep. by Act 11 of 1918, s. 26 and Sch.

(Chapter I.—Preliminary.)

Definitions.

7. In this Act, unless there is something repugnant in the subject or Definitions context,—

¹[(1) “British officer” means a person holding His Majesty’s commission in His Majesty’s Land Forces or in the Royal Marines or in the Territorial Army, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty’s Naval Forces or Royal Air Force :]

²[(2) “Indian commissioned officer” means a person commissioned, gazetted or in pay as an officer holding His Majesty’s commission in the Indian Land Forces, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in the Indian Air Force :

(2A) “Viceroy’s commissioned officer” means a person commissioned, gazetted or in pay as a Viceroy’s commissioned officer in the Indian Army :]

(3) “warrant officer” means a person appointed, gazetted or in pay as ³[an Indian] warrant officer in His Majesty’s Indian Forces :

(4) “non-commissioned officer” means a person attested under this Act holding ³[an Indian] non-commissioned rank in His Majesty’s Indian Forces, and includes an acting non-commissioned officer :

⁴[(5) “officer” means an officer of any of His Majesty’s Military Forces, and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of any of His Majesty’s Naval or Air Forces, but does not include a warrant officer, petty officer or non-commissioned officer :]

(6) “commanding officer,” when used in any provision of this Act with reference to any separate portion of His Majesty’s forces or to any department, means the British officer ⁵[or Indian commissioned officer] whose duty it is under the regulations of the army, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision :

(7) “superior officer,” when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer ; and, as regards persons placed under his orders, ⁶[an officer, warrant officer, petty officer or non-commissioned officer of any of His Majesty’s Naval, Military or Air Forces] :

¹ Subs. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 5, for original cl. (1).

² Subs. by s. 5, *ibid.*, for original cl. (2).

³ Subs. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 2, for “a native”.

⁴ Subs. by Act 33 of 1934, s. 5, for original cl. (5).

⁵ Ins. by s. 5, *ibid.*

⁶ Subs. by s. 5, *ibid.*, for “a warrant officer or non-commissioned officer subject to the Army Act or the Air Force Act.”

(Chapter I.—Preliminary.)

jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force.

6. ¹[(1) Whenever persons subject to this Act are serving—

(a) out of India under an officer not subject to the authority of the ²[Central Government], or

(b) in India under an officer commanding any military organization not in this section specifically named, and being, in the opinion of the ²[Central Government], not less than a brigade,

the ²[Central Government] may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised.]

(2) The ²[Central Government] may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as ³[it] may think fit.

⁴6A. [(1) When an officer, warrant officer or non-commissioned officer of His Majesty's Burma Forces is a member of a body of those forces acting with, or is attached to, any body of His Majesty's Indian Forces under such conditions as may be prescribed, then for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers he shall in relation to that body of His Majesty's Indian Forces be treated and have all such powers as if he were an officer, warrant officer or non-commissioned officer as the case may be of His Majesty's Indian Forces.

(2) When an officer, warrant officer, non-commissioned officer or soldier of His Majesty's Indian Forces is a member of a body of those forces acting with, or is attached to, any body of His Majesty's Burma Forces under such conditions as may be prescribed, then for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers the officers, warrant officers and non-commissioned officers of that body of His Majesty's Burma Forces shall in relation to him be treated and have all such powers as if they were officers, warrant officers or non-commissioned officers of His Majesty's Indian Forces.

(3) In this section "prescribed" means "prescribed by the Central Government and the Governor of Burma", and, for the purposes of this section, the relative rank of officers, warrant officers and non-commissioned officers of His Majesty's Indian Forces and His Majesty's Burma Forces may be determined by regulations made by the Central Government and the Governor of Burma.]

¹ Subs. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 3, for original subsection (1).

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "he".

⁴ Ins. by the A. O.

(Chapter II.—Enrolment and Attestation.)

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolment.

8. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled ; and shall put to him the question set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

Procedure before enrolling officer.

9. If, after complying with the provisions of section 8, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign ¹[and shall also cause the person to sign] the enrolment paper, and the person shall then be deemed to be enrolled.

Enrolment.

10. Every person who has for the space of six months been in the receipt of military pay ²[as an enrolled person] and been borne on the rolls of any corps or department ³* * * shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enrolment.

Presumption of enrolment in certain cases.

Attestation.

11. The following persons shall be attested, namely :—

Persons to be attested.

- (a) all persons enrolled as combatants ;
- (b) all other enrolled persons prescribed by the ⁴[Central Government].

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department as may be present or by any other prescribed person.

Mode of attestation.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, His heirs and successors, and that he will serve in His Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

¹ Ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 5.

² Ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 6.

³ The words “ (of which the last-pay statement, if produced, shall be evidence) ” rep. by Act 11 of 1918, s. 26 and Sch.

⁴ Subs. by the A. O. for “ G. G. in C.”.

(Chapter III.—Dismissal and Discharge. Chapter IV.—Summary Reduction and Punishments otherwise than by order of Court-martial.)

(2) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed :

¹[Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or in the case of a sentence of transportation or imprisonment, a portion of such other punishment, may be inflicted before he is sent to India.]

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CHAPTER IV.

SUMMARY REDUCTION AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

19. (1) The Commander-in-Chief in India, an officer commanding an army, ³[army corps], division or brigade, or any prescribed officer, may reduce to a lower grade or to the ranks ⁴[any warrant officer or] any non-commissioned officer under his command :

Reduction of warrant officers and non-commissioned officers.

⁴[Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy.]

(2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

20. (1) The Commander-in-Chief in India may, subject to the control of the ⁵[Central Government], specify the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

Minor punishments.

(2) ⁶[Imprisonment in military custody and, in the case of persons subject to this Act on active service, any prescribed field punishment may be specified as minor punishments], provided that—

(a) the term of such imprisonment ⁷[or field punishment] shall not exceed twenty-eight days ; and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

¹ Ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 7.

² Sub-section (3) rep. by s. 26 and Sch., *ibid.*

³ Ins. by s. 6, *ibid.*

⁴ Ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 9.

⁵ Subs. by the A. O. for "G. G. in C."

⁶ Subs. by the Indian Army (Amendment) Act, 1920 (37 of 1920), s. 2, for "Imprisonment in military custody may be specified as such a minor punishment".

⁷ Ins. by s. 2, *ibid.*

(Chapter IV.—*Summary Reduction and Punishments otherwise than by order of Court-martial.* Chapter V.—*Offences.*)

order and discipline, and to prevent breaches of the same by persons belonging or attached to the army. ¹[He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.]

²[(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1), clause (b), any follower who is subject to this Act under section 2, sub-section (1), clause (c), and is a menial servant and who, on active service and in his view, or in the view of any of his assistants, commits any breach of good order and military discipline.]

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

25. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences
punishable
with death.

- (a) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend ; or
- (b) in presence of an enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice ; or
- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer ; or
- (d) treacherously makes known the watchword to any person not entitled to receive it ; or
- (e) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State ; or

¹ Ins. by the Indian Army (Amendment) Act, 1920 (37 of 1920), s. 3.

² Subs. by s. 3, *ibid.*, for the original sub-sections (2) and (3).

(Chapter V.—Offences.)

- (b) being present at any mutiny, does not use his utmost endeavours to suppress the same ; or
- (c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer ; or
- (d) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such ; or
- (e) disobeys the lawful command of his superior officer ;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

28. Any person subject to this Act who commits any of the following offences, that is to say—

Offences not
punishable
with death.

- (a) is grossly insubordinate or insolent to his superior officer in the execution of his office ; or
- (b) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field ; or
- (c) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer or other person ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Desertion, Fraudulent Enrolment and Absence without Leave.

29. Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

30. Any person subject to this Act who commits any of the following offences, that is to say,—

Harbouring
deserter,
absence
without
leave, etc.

- (a) knowingly harbours any deserter, or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended ; or
- (b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person ;
or

(Chapter V.—Offences.)

- (f) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency ; or
- (g) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine or dockyard, sleeps upon his post, or quits it without being regularly relieved or without leave ; or
- (h) in time of action, leaves his commanding officer or his post or party to go in search of plunder ; or
- (i) in time of war, quits his guard, picket, party or patrol without being regularly relieved or without leave ; or
- (j) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessities to the camp or quarters of any of His Majesty's forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind ;¹[or
- (k) on active service commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving ;]

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) strikes, or forces or attempts to force, any sentry ; or
- (b) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment ; or
- (c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard ; or
- (d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Mutiny and Insubordination.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) begins, excites, causes²[or conspires with any other persons to cause,] or joins in any mutiny ; or

¹ Ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 8.

² Ins. by s. 9, *ibid.*

(Chapter V.—Offences.)

- (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen ;
or
- (f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person ; or
- (g) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity ; or
- (h) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ;
or
- (i) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Intoxication.

32. Any person subject to this Act who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Persons in Custody.

33. Any person subject to this Act who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape, shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge ; or
- (b) without proper authority releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape ; or
- (c) being in military custody, leaves such custody before he is set at liberty by proper authority ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences
punishable
with death.

Offences not
punishable
with death.

(Chapter V.—Offences.)

- (c) without having first obtained a regular discharge from the corps or department to which he belongs, enrolls himself in the same or any other corps or department ; or
- (d) absents himself without leave or without sufficient cause overstays leave granted to him ; or
- (e) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay ;
or
- (f) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty ; or
- (g) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer quits the parade or line of march ; or
- (h) in time of peace, quits his guard, picquet or patrol without being regularly relieved or without leave ; or
- (i) without proper authority is found two miles or upwards from camp ; or
- (j) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Disgraceful Conduct.

31. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of ¹[the Crown], entrusted to him ; or
- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted ; or
- (c) wilfully destroys or injures any property of ¹[the Crown] entrusted to him ; or
- (d) commits theft in respect of any property of ¹[the Crown], or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army ;
or

¹ Subs. by the A. O. for "Govt."

(Chapter V.—Offences.)

any document containing a false statement, or by omitting to make a true entry or document containing a true statement :
or

- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to ¹[the Crown] or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

37. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

False
answers on
enrolment.

Offences in relation to Courts-martial.

38. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in
relation to
courts-
martial.

- (a) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend, or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any book, document or other thing which he may have been duly warned and called upon to produce or deliver up ;
or

- (b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting ; or

- (c) having been duly sworn or affirmed before any court-martial or other military court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

¹ Subs. by the A. O. for " Govt."

(Chapter V.—Offences.)

Abetment.

40. Every person subject to this Act who abets any offence punishable under this Act may be punished with the punishment provided in this Act for such offence. Abetment.

Civil Offences.

41. ¹[(1)] Every person subject to this Act who ²[either within British India or] at any place beyond British India, ³* * * commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section, shall, subject to the provisions of this Act, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say :— Civil offences committed within or outside British India.

(a) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment ⁴[other than whipping] assigned for the offence by the law of British India ; and

(b) in other cases he shall be liable to suffer any punishment ⁴[other than whipping] assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline :

²[Provided that a person subject to this Act who at any place within British India or at any place, other than such frontier posts as may be specified by the ⁵[Central Government] by notification in this behalf, ⁶[in which the Central Government or the Crown Representative exercises jurisdiction by virtue of the Government of India Act, 1935, or of any Order in Council made under the Foreign Jurisdiction Act, 1890,] and while not on active service, commits the offence of murder or culpable homicide not amounting to murder in relation to a person not subject to military law or the offence of rape, shall not be deemed to be guilty of an offence against military law and shall not be tried by a court-martial.]

(2) The powers of a court-martial to try and to punish any person under this section shall not be affected by reason of the fact that the civil offence with which such person is charged is also a military offence.]

42. [Certain civil offences triable by military law.] Rep. by the Indian Army (Amendment) Act, 1934 (XXXIII of 1934), s. 13.

¹ The original s. 41 was re-numbered as sub-section (1) of that section by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 12.

² Ins. by s. 12, *ibid.*

³ The words “or when on active service in British India” rep. by s. 12, *ibid.*

⁴ Ins. by the Indian Army (Amendment) Act, 1920 (37 of 1920), s. 4.

⁵ Subs. by the A. O. for “G. G. in C.”.

⁶ Subs. by the A. O. for “in which the G. G. in C. exercises jurisdiction by virtue of the Indian (Foreign Jurisdiction) Order in Council, 1902”.

(Chapter V.—Offences.)

Abetment.

40. Every person subject to this Act who abets any offence punishable under this Act may be punished with the punishment provided in this Act for such offence. Abetment.

Civil Offences.

41. ¹[(1)] Every person subject to this Act who ²[either within British India or] at any place beyond British India, ³* * * commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section, shall, subject to the provisions of this Act, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say :— Civil offences committed within or outside British India.

(a) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment ⁴[other than whipping] assigned for the offence by the law of British India ; and

(b) in other cases he shall be liable to suffer any punishment ⁴[other than whipping] assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline :

²[Provided that a person subject to this Act who at any place within British India or at any place, other than such frontier posts as may be specified by the ⁵[Central Government] by notification in this behalf, ⁶[in which the Central Government or the Crown Representative exercises jurisdiction by virtue of the Government of India Act, 1935, or of any Order in Council made under the Foreign Jurisdiction Act, 1890,] and while not on active service, commits the offence of murder or culpable homicide not amounting to murder in relation to a person not subject to military law or the offence of rape, shall not be deemed to be guilty of an offence against military law and shall not be tried by a court-martial.

(2) The powers of a court-martial to try and to punish any person under this section shall not be affected by reason of the fact that the civil offence with which such person is charged is also a military offence.]

42. [Certain civil offences triable by military law.] Rep. by the Indian Army (Amendment) Act, 1934 (XXXIII of 1934), s. 13.

¹ The original s. 41 was re-numbered as sub-section (1) of that section by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 12.

² Ins. by s. 12, *ibid.*

³ The words "or when on active service in British India" rep. by s. 12, *ibid.*

⁴ Ins. by the Indian Army (Amendment) Act, 1929 (37 of 1929), s. 4.

⁵ Subs. by the A. O. for "G. G. in C."

⁶ Subs. by the A. O. for "in which the G. G. in C. exercises jurisdiction by virtue of the Indian (Foreign Jurisdiction) Order in Council, 1902".

(Chapter V.—Offences.)

Miscellaneous Military Offences.

39. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) being an officer or warrant officer, behaves in a manner unbecoming his position and character ; or
- (b) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position ; or
- (c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or
- (d) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person ; or
- (e) attempts to commit suicide and does any act towards the commission of such offence ; or
- (f) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bázár, carrying a sword, bludgeon or other offensive weapon ; or
- (g) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service ; or
- (h) neglects to obey any general or garrison or other orders ; or
- (i) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

¹[**39A.** Whoever attempts to commit an offence punishable by this Act or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence.]

¹ Ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 10.

(Chapter VI.—Punishments.)

56. ¹Supplies of pay and allowances shall not be refused to any soldier on account of any offence committed by him, unless he is convicted of a capital offence.

57. ²On active service soldiers shall not be refused pay and allowances for a period not exceeding three months.

58. ³Where in respect of any offence under this Act which is specified in the Schedule to the Act, a soldier is sentenced to a term of imprisonment, the punishment shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act.

59. ⁴Where any person is sentenced to a term of imprisonment, the punishment shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act.

60. ⁵Where any person is sentenced to a term of imprisonment, the punishment shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act.

61. ⁶Where any person is sentenced to a term of imprisonment, the punishment shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act.

62. ⁷Where any person is sentenced to a term of imprisonment, the punishment shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act.

63. ⁸Where any person is sentenced to a term of imprisonment, the punishment shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act, and shall be in addition to any punishment which may be awarded in respect of that offence under any other provision of this Act.

(a) a term not exceeding one month if the term of imprisonment does not exceed six months;

(b) a term not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year;

(c) a term not exceeding three months if the term of imprisonment exceeds one year.

¹ See the Indian Army Amendment Act, 1908 (Act VIII of 1908).
² See the Indian Army Amendment Act, 1908 (Act VIII of 1908).
³ See the Indian Army Amendment Act, 1908 (Act VIII of 1908).
⁴ See the Indian Army Amendment Act, 1908 (Act VIII of 1908).
⁵ See the Indian Army Amendment Act, 1908 (Act VIII of 1908).
⁶ See the Indian Army Amendment Act, 1908 (Act VIII of 1908).
⁷ See the Indian Army Amendment Act, 1908 (Act VIII of 1908).
⁸ See the Indian Army Amendment Act, 1908 (Act VIII of 1908).

(Chapter VI.—Punishments.)

CHAPTER VI.

PUNISHMENTS.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say :—

- (a) death ;
- (b) transportation for life or for any period not less than seven years ;
- (c) imprisonment ¹[either rigorous or simple] for any term not exceeding fourteen years ;
- ²[(cc) in the case of Indian commissioned officers, cashiering ;]
- (d) dismissal from the service ;

3* * * * * * *

- ⁴[(f) reduction, in the case of a warrant officer, to a lower grade or class or place in the list of his rank, or to the ranks ; or in the case of a non-commissioned officer, to a lower grade or a lower rank or to the ranks :

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy ;]

- (g) in the case of officers, warrant officers and non-commissioned officers, forfeiture ⁵[in the prescribed manner of seniority of rank and service for the purpose of promotion ;]

- ⁶[(gg) in the case of officers, ⁷[warrant officers and non-commissioned officers,] reprimand or severe reprimand ;]

- (h) forfeitures and stoppages as follows, namely :—

- (i) forfeiture of service for the purpose of ⁸* increased pay, pension or any other prescribed purpose ;

9* * * * * *

- (iii) forfeiture, in the case of a person sentenced to ⁷[cashiering or] dismissal from the service ¹⁰* * *, of all arrears of pay and allowances and other public money due to him at the time of such ⁷[cashiering or] dismissal.

¹ Subs. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 11(1), for “(with or without solitary confinement) ”.

² Cl. (cc) ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 14.

³ Cl. (e) rep. by s. 14, *ibid.*

⁴ Subs. by s. 14, *ibid.*, for the original clause.

⁵ Subs. by s. 14, *ibid.*, for “ of seniority of rank ”.

⁶ Cl. (gg) ins. by Act 11 of 1918, s. 11(3).

⁷ Ins. by Act 33 of 1934, s. 14.

⁸ The word “ promotion ” rep. by s. 14, *ibid.*

⁹ Sub-clause (ii) rep. by s. 14, *ibid.*

¹⁰ The words “ or whose sentence involves such dismissal ” rep. by Act 11 of 1918, s. 26 and Sch.

(Chapter VII.—Penal Deductions.)

¹[(2)] The following penal deductions may be made from the pay and allowances of a person subject to this Act ²[other than an Indian commissioned officer], that is to say,—

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal court, a court-martial, or an officer exercising authority under section 20 ³[or of field punishment awarded by a court-martial or such officer] ;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment ³[or field punishment] by an officer exercising authority under section 20 ;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the ⁴* medical officer attending on him ⁵* * to have been caused by an offence under this Act committed by him ;
- ⁶[(cc) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Commander-in-Chief in India ;]
- ⁷[(d) all pay and allowances ordered by a court-martial under section 43, or by an officer exercising authority under section 20, to be forfeited ;]
- (e) any sum ordered by a court-martial to be stopped under section 43 ;
- (f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessaries or military decoration, or to any buildings or property, as may be awarded by his commanding officer ;

¹ The original s. 50 was re-numbered as sub-section (2) of that section by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 19.

² Ins. by s. 19, *ibid.*

³ Ins. by the Indian Army (Amendment) Act, 1920 (37 of 1920), s. 7.

⁴ The word "proper" rep. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 26 and Sch.

⁵ The words "at the hospital" rep. by s. 26 and Sch., *ibid.*

⁶ Ins. by s. 14, *ibid.*

⁷ Subs. by the Indian Army (Amendment) Act, 1935 (7 of 1935), s. 2, for the original clause.

(Chapter VI—Punishments. Chapter VII.—Penal Deductions.)

^{n of} ^{nis-} ^{icers} **49.** ¹[A warrant officer or a non-commissioned officer] sentenced by court-martial to transportation, imprisonment, ²[field punishment] or dismissal from the service, shall be deemed to be reduced to the ranks.

ⁱⁿ ^{of} ^{on} ³[**49A.** When ⁴[any enrolled person] on active service has been sentenced by court-martial to dismissal or to transportation or imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to transportation or imprisonment, such service shall be reckoned as part of his term of transportation or imprisonment.]

CHAPTER VII.

PENAL DEDUCTIONS.

50. ⁵[(1) The following penal deductions may be made from the pay and allowances of an Indian commissioned officer, that is to say,—

- (a) all pay and allowances for every day of absence without leave, unless a satisfactory explanation has been given through his Commanding Officer and has been approved by the ⁶[Central Government] ;
- (b) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the court-martial by whom he is convicted of such offence ;
- (c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay ;
- (d) any sum required to make good any loss, damage or destruction of public or regimental property which after due investigation appears to the ⁶[Central Government] to have been occasioned by any wrongful act or negligence on the part of the Indian commissioned officer ;
- (e) any sum ordered by a court-martial to be stopped under section 43.]

¹ Subs. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 17, for "A non-commissioned officer".

² Subs. by the Indian Army (Amendment) Act, 1920 (37 of 1920), s. 6, for "corporal punishment".

³ Ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 13.

⁴ Subs. by Act 33 of 1934, s. 18, for "any person".

⁵ Ins. by s. 19, *ibid.*

⁶ Subs. by the A. O. for "G. G. in C.".

(Chapter VIII.—Courts-martial.)

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-martial.

53. For the purposes of this Act there shall be four kinds of courts-martial, that is to say :—

Courts-martial and the kinds thereof.

- (1) general courts-martial ;
- (2) district courts-martial ;
- (3) summary general courts-martial ; and
- (4) summary courts-martial.

54. A general court-martial may be convened by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

Power to convene general courts-martial.

55. A district court-martial may be convened by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Power to convene district courts-martial.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Contents of warrant issued under section 54 or section 55.

¹[57. A general court-martial shall consist of not less than five British officers or Indian commissioned officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of Captain.]

Composition of general courts-martial.

58. A district court-martial shall consist of not less than three ²[British officers or Indian commissioned officers].

Composition of district courts-martial.

59. [Convening order to state if larger number of officers is not available.]
Rep. by the Indian Army (Amendment) Act, 1934 (XXXIII of 1934), s. 22.

³[60. A general, summary general or district court-martial may be composed of either British officers or Indian commissioned officers or of both British officers and Indian commissioned officers.]

Composition of general, summary general or district court-martial.

61. [Claim to trial by British officers.] Rep. by the Indian Army (Amendment) Act, 1934 (XXXIII of 1934), s. 24.

¹ Subs. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 20, for the original section.

² Subs. by s. 21, *ibid.*, for " officers ".

³ Subs. by s. 23, *ibid.*, for the original section.

(Chapter VII—Penal Deductions.)

(g) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 41 ^{1*} *, or an officer exercising authority under section 20 or section 21 :

Provided that the total deductions from the pay and allowances of a person subject to this Act ²[other than an Indian commissioned officer] made under clauses (c) to (g), both inclusive, shall not (except in the case of a person sentenced to dismissal ^{3*} * *) exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (a) and (b)—

- (i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day ;
- (ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody ; and
- (iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

51. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

52. Any deduction from pay and allowances authorized by this Act may be remitted in such manner ⁴[and to such extent] and by such authority as may from time to time be prescribed.

⁵[52A. (1) In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

(2) Any payments hitherto made to dependants by way of deductions from pay and allowances which, if this section had been in force, could have been validly made are hereby validated.]

¹ The words and figures " or section 42 " rep. by the Indian Army (Amendment) Act 1935 (7 of 1935), s. 2.

² Ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 19.

³ The words " or whose sentence involves dismissal " rep. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 26 and Sch.

⁴ Ins. by the Indian Army (Amendment) Act, 1917 (10 of 1917), s. 2.

⁵ Ins. by s. 3, *ibid.*

(Chapter VIII.—Courts-martial.)

¹[67. No trial by court-martial of any person subject to this Act for any offence (other than an offence of mutiny, desertion or fraudulent enrolment) shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question ²[(not being an Indian commissioned officer)] has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of His Majesty's regular forces. Limitation of trial.

Explanation.—For the purposes of this section, 'mutiny' means any of the offences specified in clauses (a), (b) and (c) of section 27.]

68. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever. Place of trial.

Adjustment of the jurisdiction of Courts-martial and Criminal Courts.

69. When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody. Order in case of concurrent jurisdiction.

70. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the ³[Central Government]. Power of criminal court to require delivery of offender.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the ³[Central Government], whose order upon such reference shall be final.

71. (1) Notwithstanding anything contained in section 26 of the General Clauses Act, 1897, or in section 403 of the Code of Criminal Procedure, 1898, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts. Trial by court-martial no bar to subsequent trial by criminal court.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal court for the

¹ Subs. by the Indian Army (Amendment) Act, 1920 (37 of 1920), s. 8, for the section which had been subs. by the Repealing and Amending Act, 1919 (18 of 1919), s. 2 and Sch. I, for the original section.

² Ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 27.

³ Subs. by the A. O. for "G. G. in C."

(Chapter VIII.—Courts-martial.)

62. The following authorities shall have power to convene a summary general court-martial, namely :—

- (a) an officer empowered in this behalf by an order of the ¹[Central Government] or of the Commander-in-Chief in India ;
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf ;
- (c) an officer commanding any detached portion of His Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

63. A summary general court-martial shall consist of not less than three ²[British officers or Indian commissioned officers].

64. (1) A summary court-martial may be held—

- (a) by the commanding officer of any corps or department of His Majesty's Indian Forces, or of any detachment of those forces ;
- (b) by the commanding officer of any British corps or detachment to which details subject to this Act are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed.

65. (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved.

3* * * * * * *

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction of Courts-martial.

66. When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 20 or section 22, he shall not be liable to be tried again for the same offence by a court-martial or dealt with summarily in respect of it under either of the said sections.

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 25, for "officers".

³ The proviso rep. by s. 26, *ibid.*

(Chapter VIII.—Courts-martial.)

Procedure at Trials by Court-martial.

77. At every general, district or summary general court-martial the senior President member shall sit as president.

78. Every general court-martial shall, and every district court-martial Judge Advocate may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a person appointed by the convening officer.

79. [Superintending officer.] Rep. by the Indian Army (Amendment) Act, 1934 (XXXIII of 1934), s. 30.

80. (1) At all trials by general, district or summary general courts-martial, Challenges as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

81. (1) Every decision of a court-martial shall be passed by an absolute Voting of majority of votes ; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused. members.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

82. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge advocate ¹* * * before the commencement of the trial. Oaths of president and members.

83. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form. Oaths of witnesses.

84. (1) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance ²* * *, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing. Summoning witnesses and production of documents.

¹ The words "or superintending officer" rep. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 31.

² The words "before the court" rep. by s. 32, *ibid.*

(Chapter VIII.—Courts-martial.)

same offence or on the same facts, that court shall, in awarding punishment, have regard to the military punishment he may already have undergone.

Powers of Courts-martial.

72. A general or summary general court-martial shall have power to try any person subject to this Act for any offence made punishable therein and to pass any sentence authorized by this Act.

73. A district court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death, or transportation, or imprisonment for a term exceeding two years :

¹[Provided that a district court-martial shall not award to a warrant officer any punishment other than ²[the punishments specified in clauses (g), (gg) and (h) of section 43 or], either in addition to or in substitution for any such punishment, the punishment specified in clause (d) or the punishment specified in clause (f) of that section.]

74. A summary court-martial may try any offence punishable under any of the provisions of this Act :

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial ³[or on active service a summary general court-martial] for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any of the following offences, namely :—

(a) any offence punishable under sections 25, 27, clauses (a), (b) or (c), 33 ⁴[or 41], or

(b) any offence against the officer holding the court.

75. A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer or warrant officer.

76. (1) A summary court-martial ⁵* * * may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

6* * * *

¹ Ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 28.

² Subs. by the Indian Army (Amendment) Act, 1935 (7 of 1935), s. 3, for "the punishment specified in clause (h) of section 43 or".

³ Ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 15.

⁴ Subs. by Act 33 of 1934, s. 29, for "41 or 42".

⁵ The words "held by the commanding officer of a corps or department" rep. by the Indian Army (Amendment) Act, 1917 (10 of 1917), s. 4.

⁶ Sub-section (2) of s. 76 rep. by s. 4, *ibid*.

(Chapter VIII.—Courts-martial.)

shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under the Code of Criminal Procedure, 1898.

(5) Where the commission is issued to such officer as is mentioned in sub-section (3), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

(6) When the witness resides out of India, the commission may be issued to any British consular officer, British Magistrate or other British official competent to administer an oath or affirmation in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such Magistrate or officer by pleader or, except in the case of an accused person in custody, in person, and may examine, cross examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(10) On receipt of a commission and deposition returned under sub-section (9), the Judge Advocate General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Explanation.—In this section, the expression “Judge Advocate General” means the Judge Advocate General in India, and includes a Deputy Judge Advocate General.

86. (1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave,

(2) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave,

Conviction of one offence permissible on charge of another.

(Chapter VIII.—Courts-martial.)

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, postcard, telegram¹ of 1872. or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

85. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

¹[(3) When the witness resides in any Indian State or tribal area in which there is an officer representing the Central Government or the Crown Representative, the commission may be issued to that officer.]

(4) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or

¹ Subs. by the A. O. for the original sub-section.

(Chapter VIII.—Courts-martial.)

¹[91A. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the ²[Central Government] or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

Presump-
tion as to
certain
documents.

(2) An Army List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong.

(3) Where a record is made in any regimental book, in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a provost-marshal, assistant provost-marshal or other officer, or any portion of His Majesty's Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.]

³[(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.]

92. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and

Reference by
accused to
Government
officer.

¹ S. 91A ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 18.

² Subs. by the A. O. for "G. G. in C."

³ Sub-section (7) ins. by the Indian Army (Amendment) Act, 1923 (33 of 1923), s. 3.

(Chapter VIII.—Courts-martial.)

(3) A person charged before a court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest mis-appropriation or conversion to his own use of property entrusted to him, or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a court-martial with an offence punishable under section 41 ¹* * may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898, were applicable. V of 1898.

(5) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

²[(6) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.]

87. No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

Evidence before Courts-martial.

88. The Indian Evidence Act, 1872, shall, subject to the provisions of this I of 1872. Act, apply to all proceedings before a court-martial.

89. A court-martial may take judicial notice of any matter within the general military knowledge of the members.

90. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the ³[service of the Crown] shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

91. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. ⁴[The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.]

¹ The words and figures " or section 42 " rep. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 33.

² Ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 16.

³ Subs. by the A. O. for " civil or military service of the Govt."

⁴ Subs. by Act 11 of 1918, s. 17, for " and of the enrolment of such person ".

(Chapter VIII.—Courts-martial.)

refers in support thereof to any officer in the ¹[service of the Crown] or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

93. (1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary * * * to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and Revision of Findings and Sentences.

94. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

95. The findings and sentences of general courts-martial may be confirmed by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

96. The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

¹ Subs. by the A. O. for "civil or military service of Govt."

² The words "to prove the signature to such certified extracts, nor shall it be necessary" rep. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 26 and Sch.

(Chapter IX.—Execution of Sentences. Chapter X.—Pardons and Remissions.)

when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

111. [Instrument of corporal punishment.] Rep. by the Indian Army (Amendment) Act, 1920 (XXXVII of 1920), s. 10.

¹[111A. When a sentence of fine is imposed by a court-martial under section 41 ²* * *, whether the trial was held within British India or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate.] Execution of sentence of fine.

CHAPTER X.

PARDONS AND REMISSIONS.

³[112. (1) When any person subject to this Act has been convicted by a court-martial of any offence, the ⁴[Central Government] or the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of his conviction was serving, or the prescribed officer, may, Pardons and remissions.

(a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded ;

(b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be deemed to have effect as if such pardon had not been granted or such punishment had not been remitted :

¹ S. 111A was ins. by the Indian Army (Amendment) Act, 1920 (XXXVII of 1920), s. 10.

² The words and figures " or section 42 " rep. by the Indian Army (Amendment) Act, 1934 (XXV of 1934), s. 37.

³ Subs. by Act II of 1918, s. 24, for the original s. 112.

⁴ Subs. by the A. O. for " G. G. in C. "

(Chapter IX.—Execution of Sentences.)

105. [*Imprisonment to be in military custody.*] *Rep. by the Indian Army (Amendment) Act, 1934 (XXXIII of 1934), s. 34.*

106. Whenever any person is sentenced under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

107. Whenever any sentence of transportation or ¹* imprisonment is passed under this Act, or whenever any sentence so passed is commuted to transportation or to ¹* imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant :

Provided that, in the case of a sentence of ¹* imprisonment for a period not exceeding three months, the confirming officer, or in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in military custody :

²[Provided further that on active service a sentence of ¹* imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may, from time to time, appoint.]

108. Whenever, in the opinion of an officer commanding an army, ³[army corps], division or independent brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of ⁴* * * * section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

⁵[**108A.** In every case in which a sentence of transportation is passed under this Act, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment.]

109. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined.

110. In executing a sentence of solitary confinement such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and,

¹ The word "rigorous" rep. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 35.

² This proviso was ins. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 21.

³ Ins. by s. 6, *ibid.*

⁴ The words and figures "section 105 or" rep. by Act 33 of 1934, s. 36.

⁵ Ins. by Act 11 of 1918, s. 22.

(Chapter XII.—Property of Deceased Persons, Deserters and Lunatics.)

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS.

¹[114. The following rules are enacted respecting the disposal of the pro- Property of
deceased
persons and
deserters.
perty of every person subject to this Act who dies or deserts :—

(1) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.] Meaning of
desertion.

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, Disposal of
certain pro-
perty without
production of
probate, etc.

¹ Subs. by the Indian Army (Amendment) Act, 1914 (15 of 1914), s. 2, for the original section.

(Chapter X.—Pardons and Remissions. Chapter XI.—Rules.)

Provided that, in the case of a person sentenced to transportation or imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 49 ¹[a warrant officer or] a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial.]

CHAPTER XI.

RULES.

113. (1) The ²[Central Government] may make ³rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the ⁴[removal, retirement or discharge] from the service of persons subject to this Act ;

(b) the amount and incidence of fines to be imposed under section 21 ;

⁵[(b⁶) the specification of the punishments which may be awarded as field punishments under sections 20 and 45 ;]

(c) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts ;

(d) the convening and constituting of courts-martial ;

(e) the adjournment, dissolution and sittings of courts-martial ;

(f) the procedure to be observed in trials by courts-martial ;

(g) the confirmation and revision of the findings and sentences of courts-martial ;

(h) the carrying into effect sentences of courts-martial ;

(i) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation or imprisonment ; ^{6*}

⁷[(ii) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 52A, and the due carrying out of such decisions ;] ⁸[and]

(j) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the ⁹[Official Gazette], and, on such publication, shall have effect as if enacted in this Act.

¹ Ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 38.

² Subs. by the A. O. for " G. G. in C."

³ For rules under the Act, see Gen. R. and O., Vol. IV, p. 127.

⁴ Subs. by Act 33 of 1934, s. 39, for " discharge ".

⁵ Ins. by the Indian Army (Amendment) Act, 1920 (37 of 1920), s. 9.

⁶ The word " and " rep. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I.

⁷ Ins. by the Indian Army (Amendment) Act, 1917 (10 of 1917), s. 6.

⁸ Ins. by Act 8 of 1930, s. 2 and Sch. I.

⁹ Subs. by the A. O. for " Gazette of India ".

(Chapter XIII.—Miscellaneous.)

made to his Commanding Officer does not receive the redress to which he considers himself entitled, may complain to the ¹[Central Government].

118. (1) No president or member of a court-martial, no judge advocate ^{Privileges of persons attending courts-martial.} ²*, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

119. (1) No person subject to this Act shall, so long as he belongs to His Majesty's Indian Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer. ^{Exemption from arrest for debt.}

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

120. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him. ^{Property exempted from attachment.}

121. Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 119 and 120 to a person subject to this Act. ^{Application of the last two foregoing sections to reservists.}

122. (1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for. ^{Priority of hearing by courts of cases in which Indian officers and soldiers are concerned.}

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

¹ Subs. by the A. O. for "G. G. in C."

² The words "or superintending officer" rep. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 42.

(Chapter XII.—Property of Deceased Persons, Deserters and Lunatics.
Chapter XIII.—Miscellaneous.)

be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title ; and such delivery or payment shall be a full discharge to those ordering or making the same and to ¹[the Crown] from all further liability in respect of the property or money ; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

116. The provisions of section 114 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane, ²[or, who, being on active service, is officially reported missing :

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (2) to (5), inclusive, of the said section, until one year has elapsed from the date of such report.]

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

117. (1) Any person subject to this Act ³[other than an Indian Commissioned Officer] who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving ; and may, if attached to a troop or company, complain to the officer commanding the same.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority :

³[Provided that a decision by an authority competent to dispose of the matter complained of shall be final.]

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

⁴[**117A.** Any Indian commissioned officer who deems himself wronged by his Commanding Officer or any superior officer and who on due application

¹ Subs. by the A. O. for " the Secretary of State for India in Council ".

² Ins. by the Indian Army (Amendment) Act, 1920 (2 of 1920), s. 2.

³ Ins. by the Indian Army (Amendment) Act, 1934 (33 of 1934), s. 40.

⁴ Ins. by s. 41, *ibid.*

(Chapter XIII.—Miscellaneous.)

person, and the deficiency, if any, of property of ¹[the Crown] entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessities ; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any ; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

2* * * * * *

Disposal of Property.

³[126A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for custody and disposal of property pending trial in certain cases.

126B. (1) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

Order for disposal of property regarding which offence committed.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within British India or not, be sent to a Magistrate in any presidency-town or district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure, 1898.

Explanation.—In this section the term “ property ” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control

¹ Subs. by the A. O. for “ the Govt.”

² Sub-section (3) rep. by the Indian Army (Amendment) Act, 1918 (11 of 1918), s. 26 and Sch.

³ Ss. 126A and 126B were ins. by s. 25, *ibid.*

(Chapter XIII.—Miscellaneous.)

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a corps, whose decision shall be final.

Deserters and Military Offenders.

123. (1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to military custody.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

124. (1) Any person subject to this Act who is charged with an offence may be taken into military custody.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay, be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

125. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police-officer, such Magistrate or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

126. (1) When any person subject to this Act has been absent without due authority from his duty for a period of sixty days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the

to prevent the ¹[Provincial Government] ²* * * * * from making any further notifications in respect of the same area from time to time as it may think fit.

3. (1) In this Act, the expression “ public meeting ” means a meeting which Definition.
is open to the public or any class or portion of the public.

(2) A meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto may have been restricted by ticket or otherwise.

4. (1) No public meeting for the furtherance or discussion of any subject Notice to be
likely to cause disturbance or public excitement, or for the exhibition or dis- given of
tribution of any writing or printed matter relating to any such subject, shall public
be held in any proclaimed area— meetings.

(a) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Magistrate or the Commissioner of Police, as the case may be, at least three days previously ; or

(b) unless permission to hold such meeting has been obtained in writing from the District Magistrate or the Commissioner of Police, as the case may be.

(2) The District Magistrate or any Magistrate of the first class authorized by the District Magistrate in this behalf may, by order in writing, depute one or more Police-officers, not being below the rank of head constable, or other persons, to attend any such meeting for the purpose of causing a report to be taken of the proceedings. Power of Magistrate to cause report to be taken.

(3) Nothing in this section shall apply to any public meeting held under Exception.
any statutory or other express legal authority, or to public meetings convened by a sheriff, or to any public meetings or class of public meetings exempted for that purpose by the ¹[Provincial Government] by general or special order.

5. The District Magistrate or the Commissioner of Police, as the case may be, may at any time, by order in writing, of which public notice shall forth- with be given, prohibit any public meeting in a proclaimed area, if, in his opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity. Power to prohibit public meetings.

6. (1) Any person concerned in the promotion or conduct of a public Penalties.
meeting held in a proclaimed area contrary to the provisions of section 4 shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Any public meeting which has been prohibited under section 5 shall be deemed to be an unlawful assembly within the meaning of Chapter VIII of the Indian Penal Code and of Chapter IX of the Code of Criminal Procedure, 1898.

7. Whoever, in a proclaimed area, in a public place or a place of public resort, otherwise than at a public meeting held in accordance with, or exempted Penalty for delivery of speeches in

¹ Subs. by the A. O. for “ L. G.”

² The words “ with the previous sanction of the G. G. in C.” rep. by the A. O.

(Chapter XIII.—Miscellaneous.)

Prevention of Seditious Meetings. [1911 : Act X.

of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.]

Repeal.

127. [Repeal.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE SCHEDULE.—[REPEAL OF ENACTMENTS.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE PREVENTION OF SEDITIOUS MEETINGS ACT, 1911.

ACT NO. X OF 1911.¹

[22nd March, 1911.]

An Act to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity.

WHEREAS it is expedient to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity ; It is hereby enacted as follows :—

1. (1) This Act may be called the Prevention of Seditious Meetings Act, 1911.

(2) It extends to the whole of British India, but shall have operation only in such Provinces or parts of Provinces as the ²[Provincial Government] may from time to time notify in the ³[Official Gazette].

2. (1) The ⁴[Provincial Government] may, ⁵* * * * * by notification in the ⁶[Official Gazette], declare the whole or any part of a Province, in which this Act is for the time being in operation, to be a proclaimed area.

(2) A notification made under sub-section (1) shall not remain in force for more than six months, but nothing in this sub-section shall be deemed

¹ For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 100 ; for Report of Select Committee, see *ibid.*, 1911, Pt. V, p. 100 ; and for Proceedings in Council, see *ibid.*, 1911, Pt. VI, pp. 362 and 452.

This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. ; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

² Subs. by the A. O. for " G. G. in C."

³ Subs. by the A. O. for " Gazette of India".

⁴ Subs. by the A. O. for " L. G."

⁵ The words " with the previous sanction of the G. G. in C." rep. by the A. O.

⁶ Subs. by the A. O. for " local official Gazette".

Provided that the Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (i) and the amount in dispute is five thousand rupees or upwards.

(2) An appeal under clause (b) of sub-section (1) shall only lie on ¹[one or more of] the following grounds, namely :—

(i) the decision being contrary to law or to some usage having the force of law ;

(ii) the decision having failed to determine some material issue of law or usage having the force of law ;

(iii) a substantial error or defect in the procedure provided by the said Act which may possibly have produced error or defect in the decision of the case upon the merits.

08. 4. Subject to the provisions of section 3, the provisions of the Code of Procedure in Civil Procedure, 1908, with respect to appeals from original decrees shall, such appeals. so far as may be, apply to appeals under this Act.

5. The Chief Judge of the Court of Small Causes of Calcutta shall, on application, execute any order passed by the Court on appeal ²[under this Act as if it were] a decree made by himself. Execution of orders of Court.

08. 908. 6. An appeal under section 3 shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of No. 156 of the First Schedule to the Indian Limitation Act, 1908. Period of limitation for such appeals

THE COWASJEE JEHangIR BARONETCY ACT, 1911.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Incorporation of Trustees.
3. Heirs of Sir Cowasjee Jehangir to take his name.
4. Vesting and application of income of settled property.
5. Application of income during minority.
6. Mansion-houses limited to the use of the Baronet for the time being.
7. Devolution of interest where beneficiary refuses, neglects or discontinues to use the names "Cowasjee Jehangir".
8. Power to charge settled property for jointure of widow.
9. Limitation to amount of jointure.

¹ Ins. by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I.

² Subs. by s. 2 and Sch. I, *ibid.*, for "as if it was".

from, the provisions of section 4, without the permission in writing of the Magistrate of the District or of the Commissioner of Police, as the case may be, previously obtained, delivers any lecture, address or speech on any subject likely to cause disturbance or public excitement to persons then present, may be arrested without warrant, and shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

8. No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class or Sub-divisional Magistrate shall try any offence against this Act.

9. [Repeals.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE CALCUTTA IMPROVEMENT (APPEALS) ACT, 1911.

ACT XVIII OF 1911.¹

[23rd September, 1911.]

An Act to modify certain provisions of the Calcutta Improvement Act, 1911.

WHEREAS it is expedient to modify the provisions of the Calcutta Improvement Act, 1911², so as to provide in certain cases for an appeal to the High Court from the awards of the Tribunal constituted under that Act; It is hereby enacted as follows :—

1. This Act may be called the Calcutta Improvement (Appeals) Act, 1911.

2. In this Act—

(1) "Court" means the High Court of Judicature at Fort William in Bengal; and

(2) "Tribunal" has the same meaning as in the Calcutta Improvement Act, 1911². Ben. V of 1911.

3. (1) Notwithstanding anything contained in the Calcutta Improvement Act, 1911², an appeal shall lie to the Court in any of the following cases, namely :— Ben. V of 1911.

(a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (b) of section 77 of the said Act :

(b) where the decision is that of the Tribunal, and

(i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(ii) the Court grants special leave to appeal :

¹ For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 118; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 635, 636 and 680 to 687.

² See Ben. Code.

did erect, appoint and create a Baronet of the United Kingdom of Great Britain and Ireland by the said Letters Patent, to hold to him and the heirs male of his body lawfully begotten and to be begotten ;

and whereas the said Sir Cowasjee Jehangir is desirous of settling in perpetuity such property on himself and the heirs male of his body who may succeed to the said Baronetcy as shall be adequate to support the dignity of the title conferred on him and them as aforesaid ;

and whereas the said Sir Cowasjee Jehangir is seised of two Mansion-houses and hereditaments both situate in the Island of Bombay called respectively " Readymoney House " and " Fort Mansion " and has an absolute estate of inheritance therein, and is entitled, by an indenture made the 20th day of October in the year one thousand eight hundred and seventy-seven, to an annuity of fifty thousand rupees payable by the Secretary of State in Council of India in perpetuity and being of the value of fifteen lakhs of rupees and is desirous of settling the said annuity of fifty thousand rupees and securities, being promissory notes of the Government of India or bonds of the Municipal Corporation of the City of Bombay, the Trustees of the Port of Bombay and the Trustees for the Improvement of the City of Bombay, of the nominal value of ten lakhs of rupees and producing a further annual income of about forty thousand rupees and the said Mansion-houses and hereditaments, to the uses, upon the trusts and for the purposes hereinafter limited and declared, concerning the same respectively ;

and whereas the said Sir Cowasjee Jehangir is desirous that the heirs male of his body, to whom the said title and dignity of Baronet shall descend, shall, at the time of such descent upon them respectively, take and bear the names of " Cowasjee Jehangir " in lieu of any other name or names whatever which they respectively may bear at the time of such descent on them respectively ; and he is also desirous that the Accountant General, Bombay, the Collector of Bombay and the Chief Presidency Magistrate, Bombay, all for the time being, shall be trustees of the aforesaid annuity, securities, Mansion-houses and hereditaments, and be likewise the trustees for carrying into execution the general purposes and powers of this Act, with relation to the said annuity and securities and also with relation to the said Mansion-houses and hereditaments ;

and whereas the said Sir Cowasjee Jehangir is desirous of settling the said annuity and the said securities and the said Mansion-houses and hereditaments so as aforesaid agreed to be settled by him for the purpose of supporting the dignity of the said Baronetcy, to the uses, upon the trusts and for the purposes hereinafter limited and declared, concerning the same respectively ;

and whereas it is expedient that the aforesaid purposes should be effected by an Act of the Council of the Governor General for improving the said regulations ;

It is hereby enacted as follows :—

1. This Act may be called the *Cowasjee Jehangir Baronetcy Act, 1911*.
2. Lionel Edward Pritchard Esquire, the Accountant General, Bombay, and Edward Little Sale, Esquire, the Collector of Bombay, shall be the trustees for carrying into execution the general purposes and powers of this Act, with relation to the said annuity and securities and also with relation to the said Mansion-houses and hereditaments ;

succeeded to, and be in the enjoyment of, the title of Baronet conferred by the said Letters Patent as aforesaid, notwithstanding any rule of law or equity to the contrary, and upon failure and in default of heirs male of the body of the said Sir Cowasjee Jehangir, to whom the same title and dignity of Baronet may descend, upon trust for the said Sir Cowasjee Jehangir, his executors, administrators and assigns, which ultimate remainder or reversion it shall be lawful for the said Sir Cowasjee Jehangir, his executors, administrators and assigns, at any time or times, during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir, to assign, transfer, bequeath and dispose of by deed or will or other assurance or assurances.

5. The Corporation during the minority of any person for the time being entitled to and in enjoyment of the said dignity of Baronet under the limitations of the said Letters Patent shall pay and apply for and towards the maintenance, education and benefit of such Baronet, in each and every year during such his minority as aforesaid, so much only of the annual interest, dividends and income of the said Trust Funds and premises as the Corporation shall in their discretion think proper, and shall from time to time invest the residue of the said annual interest, dividends and income of the said Trust Funds and premises in and upon stocks, funds and securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the ¹[Central Government], and shall upon such Baronet attaining his majority pay over, transfer and assign to him or as he shall direct and for his absolute benefit the said investments and all accumulations thereof.

6. The Mansion-houses and other hereditaments called respectively “Readymoney House” and “Fort Mansion” situate in the Island of Bombay, with their rights, members and appurtenances, of which the said Sir Cowasjee Jehangir is seised to him and his heirs, shall, by force of this Act, from and immediately after the passing thereof, stand limited unto and to the use of the Corporation upon the trusts hereinafter declared, that is to say, upon trust for the said Sir Cowasjee Jehangir for and during the term of his natural life and from and immediately after his decease upon trust for the heirs male of the body of the said Sir Cowasjee Jehangir who may succeed to the title of Baronet conferred by the said Letters Patent as aforesaid, and upon failure and default of heirs male of the body of the said Sir Cowasjee Jehangir to whom the same title and dignity of Baronet may descend as aforesaid, upon trust for the said Sir Cowasjee Jehangir, his executors, administrators and assigns, which ultimate remainder or reversion it shall be lawful for the said Sir Cowasjee Jehangir and his heirs and assigns at any time or times, during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir, to assign, transfer, bequeath and dispose of by deed or will or other assurance or assurances, by which such an estate in remainder or reversion may be created or conveyed or disposed of by deed or will or other assurance or assurances.

Application
of income
during
minority.

Mansion-
houses
limited to
the use of
the Baronet
for the
time being.

annuity or yearly income : Provided always that in case any person on whom such title shall descend shall have refused or neglected to use the names of "Cowasjee Jehangir" or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him, shall be and become inoperative and invalid, and no such annuity thereby created or appointed shall take effect or be payable, or chargeable, on the said trust funds and premises, notwithstanding any such limitation or appointment.

9. Provided always that the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities shall not at one and the same time be subject to the payment of more than the yearly sum of twenty thousand rupees for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of or under the same power the said annuity of fifty thousand rupees and interest, dividends and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of twenty thousand rupees, the yearly sum which shall occasion such excess or such part thereof as shall occasion the same shall during the time of such excess abate and not be payable.

Limitation to amount of jointure.

10. The said Mansion-houses and hereditaments called respectively "Readymoney House" and "Fort Mansion," with their rights, members and appurtenances, shall not be subject to any right, inheritance or estate whatsoever which the wife of the said Sir Cowasjee Jehangir, or the wives of any of the persons who shall successively become entitled thereto, may or might have or claim to have in the said Mansion-houses and hereditaments under any custom or law of the Parsees, or otherwise howsoever.

Exclusion of wives from interest in Mansion-houses.

11. Save as regards the ultimate remainders or reversions, hereinbefore limited in trust for the said Sir Cowasjee Jehangir, his heirs, executors, administrators and assigns respectively, so long as the said title and dignity of Baronet shall endure, and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir, to whom the said title and dignity of Baronet might descend pursuant to the limitations of the Patent whereby the said dignity was granted, neither the said Sir Cowasjee Jehangir nor any of the heirs male of his body in whose favour trusts are hereby first declared of the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities, or of the said Mansion-houses and hereditaments called respectively "Readymoney House" and "Fort Mansion," shall transfer, dispose of, alien, mortgage, charge or encumber the said trust funds and premises or any part thereof or the interest, dividends and annual income thereof or any part thereof or the said Mansion-houses or hereditaments, or any part thereof for any greater or larger estate, interest or time than during his natural life, or for any such portion thereof only as he shall continue to use the name of "Cowasjee Jehangir," nor shall any such person as aforesaid or any of them, or any other or others of them or with any other person or persons whomsoever

Limitation of transfers to life of transferor.

7. Provided always that in case any person to whom for the time being the said title of Baronet shall have descended shall, for the space of one whole year after he shall by virtue of this Act become entitled to the said annuity of fifty thousand rupees and the said dividends, interest and income of the said promissory notes, bonds, stocks, funds and securities, or to the possession or receipt of the rents and profits of the said hereditaments, or being then under age shall for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of "Cowasjee Jehangir" as hereinbefore enacted, or in case any such person having so used those names shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest in the said trust funds and premises of the person who shall so refuse or neglect to use or having used shall so discontinue to use the said names of "Cowasjee Jehangir" shall during the remainder of his respective natural life be suspended; and that, during any and every such suspension, the said annuity of fifty thousand rupees and the interest, dividends and income of the said promissory notes, bonds, stocks, funds and securities, and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who would for the time being be entitled to succeed to the said title of Baronet next after the person so refusing or discontinuing to use the said name or in default of any such person to the person or persons who would be entitled to the same in case there had been a total failure of issue male of the said Sir Cowasjee Jehangir.

8. It shall be lawful for the said Sir Cowasjee Jehangir and for any person to whom the said title of Baronet shall from time to time descend when in the actual enjoyment of the said title, and who shall not refuse, neglect or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of "Cowasjee Jehangir" as hereinbefore enacted, either before or after his marriage with any woman or women by any deed or deeds, writing or writings, with or without power of revocation to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to the annuity or annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power), to limit and appoint unto any woman or women whom he shall marry for her or their life or lives, and for her or their jointure or jointures in bar of dower or other legal or customary rights any annuity or yearly sum not exceeding the sum of ten thousand rupees, clear of all taxes, charges and deductions whatsoever to commence and take effect immediately after the decease of the person limiting or appointing the same and to be issuing and payable out of the said annuity of fifty thousand rupees and the dividends, interest and annual income of the said promissory notes, bonds, stocks, funds and securities, and to be paid and payable by equal half-yearly payments on the thirtieth day of June and the thirty-first day of December, the first of the said half-yearly payments to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such

have any power to discontinue or bar the estates tail hereinbefore limited in trust for the heirs male of the body of the said Sir Cowasjee Jehangir, or any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities, or of the said Mansion-houses, hereditaments and the rents and profits thereof, or to prevent any such person or persons from succeeding to, holding or enjoying, receiving or taking the same premises according to the true intent of the provisions hereinbefore contained, nor shall the same premises or any of them be held by any Court of law or equity to have vested in any such person as aforesaid for any greater estate or interest than during his life, and only during such portion thereof as he shall continue to use the names of "Cowasjee Jehangir." and every attempt to make any conveyance, assignment or assurance contrary to the intention of this Act shall be, and is hereby, declared and enacted to be void.

12. If at any time or times hereafter the said Sir Cowasjee Jehangir or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act, and for that purpose and with that intent shall at his or her own expense transfer and deliver to the Corporation any stocks, funds or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the ¹[Central Government], then and as often as the same shall happen the said Corporation may, with the previous consent of the ²[Provincial Government of Bombay], accept such stocks, funds and securities, and the same shall thenceforth be held by the said Corporation upon the same trusts as are declared by this Act with regard to the said trust funds and premises or upon such of them as shall then be subsisting and capable of taking effect: Provided always that the total amount of the promissory notes, bonds, stocks, funds and securities for the time being subject to the trusts of this Act, shall at no time exceed fifty lakhs of rupees.

13. The said Mansion-houses called respectively "Readymoney House" and "Fort Mansion", and all the out-buildings and offices thereof, and also all other messuages or buildings, which may from time to time be added thereto, or substituted therefor, or which may hereafter become subject to any of the trusts of this Act, shall be kept insured in the name of the said Corporation, or of the persons for the time being constituting the same against loss or damage by fire, in such sum as the Corporation may deem adequate by, and at the expense of, the person for the time being in the enjoyment of the said title of Baronet, and in case any such person shall at any time neglect or refuse to insure the same in such amount, it shall be lawful for the Corporation to get the same insured, and to apply any portion of the income of the funds for the time being subject to the trusts of this Act to that purpose, and in case

¹ Subs. by the A. O. for "G. of I."

² Subs. by the A. O. for "Governor of Bombay in Council".

Registration.

SECTIONS.

3. The Registrar.
4. Societies which may be registered.
5. Restrictions on interest of member of society with limited liability and a share capital.
6. Conditions of registration.
7. Power of Registrar to decide certain questions.
8. Application for registration.
9. Registration.
10. Evidence of registration.
11. Amendment of the by-laws of a registered society.

Rights and liabilities of members.

12. Member not to exercise rights till due payment made.
13. Votes of members.
14. Restrictions on transfer of share or interest.

Duties of registered societies.

15. Address of societies.
16. Copy of Act, rules and by-laws to be open to inspection.
17. Audit.

Privileges of registered societies.

18. Societies to be bodies corporate.
19. Prior claim of society.
20. Charge and set-off in respect of shares or interest of member.
21. Shares or interest not liable to attachment.
22. Transfer of interest on death of member.
23. Liability of past member.
24. Liability of the estates of deceased members.
25. Register of members.
26. Proof of entries in societies' books.
27. Exemption from compulsory registration of instruments relating to shares and debentures of registered society.
28. Power to exempt from income-tax, stamp-duty and registration-fees.

Property and funds of registered societies.

29. Restrictions on loans.
30. Restrictions on borrowing.
31. Restrictions on other transactions with non-members.
32. Investment of funds.
33. Funds not to be divided by way of profit.
34. Contribution to charitable purpose.

for sale or exchange and re-sell or re-exchange without being responsible for any loss occasioned thereby.

17. And it is hereby declared that the said Corporation shall receive all moneys which may become payable upon any such sale or exchange as aforesaid, and with all convenient speed invest the same either in the purchase of any stocks, funds or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the ¹[Central Government] or in the purchase of other lands or hereditaments situate in the Presidency of Bombay and suitable for the support of the dignity of the said title : Provided that every such purchase of lands or hereditaments be made with the consent in writing of the person then entitled to and in the actual enjoyment of the said title.

18. And it is hereby declared that the stocks, funds and securities and the lands or hereditaments, respectively, so to be purchased or taken in exchange as aforesaid shall from and immediately after the completion of the purchase or exchange thereof, respectively, be held upon the trusts in and by this Act declared of and concerning the said trust funds and the said Mansion-houses and premises respectively, or such of them, respectively, as may then be subsisting and capable of taking effect.

19. It shall be lawful for the Corporation out of the money which shall come to their hands by virtue of the trusts and provisions of this Act to retain and reimburse themselves all costs, damages and expenses which they shall or may sustain, expend or disburse in or about the execution of the aforesaid powers, trusts and provisions, or in relation thereto.

20. Saving always to the King's most Excellent Majesty, His heirs and successors, and to all and every other person and persons, bodies politic and corporate, and his, her and their respective heirs, successors, executors and administrators and every of them (other than and except the said Sir Cowasjee Jehangir, his devisees, heirs and assigns), all such estate, right, title, interest, claim and demand whatsoever of, into, out of or upon the said Mansion-houses and hereditaments called respectively "Readymoney House" and "Fort Mansion," or any part or parts thereof, as they, every or any of them, had before the passing of this Act and would, could or might have had, held or enjoyed in case this Act had not been passed.

THE CO-OPERATIVE SOCIETIES ACT, 1912.

CONTENTS.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Definitions.

¹ Subs. by the A. O. for "G. of I."

(Preliminary. Registration.)

2. In this Act, unless there is anything repugnant in the subject or con- Definitions.
t,—

- (a) “by-laws” means the registered by-laws for the time being in force, and includes a registered amendment of the by-laws :
- (b) “committee” means the governing body of a registered society to whom the management of its affairs is entrusted :
- (c) “member” includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules :
- (d) “officer” includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules or the by-laws to give directions in regard to the business of the society :
- (e) “registered society” means a society registered or deemed to be registered under this Act :
- (f) “Registrar” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act : and
- (g) “rules” means rules made under this Act.

Registration.

3. The ¹[Provincial Government] may appoint a person to be Registrar of The Regis-
Co-operative Societies for the Province or any portion of it, and may appoint trar.
persons to assist such Registrar, and may, by general or special order, confer
on any such persons all or any of the powers of a Registrar under this Act.

4. Subject to the provisions hereinafter contained, a society which has Societies
as its object the promotion of the economic interests of its members in accord- which may
ance with co-operative principles, or a society established with the object of be regis-
facilitating the operations of such a society, may be registered under this Act tered.
with or without limited liability :

Provided that unless the ¹[Provincial Government] by general or special order otherwise directs—

- (1) the liability of a society of which a member is a registered society shall be limited ;
- (2) the liability of a society of which the object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited.

¹ Subs. by the A. O. for “L. G.”

*(Preliminary.)**Inspection of affairs.*

SECTIONS.

- 35. Inquiry by Registrar.
- 36. Inspection of books of indebted society.
- 37. Costs of inquiry.
- 38. Recovery of costs.

Dissolution of society.

- 39. Dissolution.
- 40. Cancellation of registration of society.
- 41. Effect of cancellation of registration.
- 42. Winding up.

Rules.

- 43. Rules.

Miscellaneous.

- 44. Recovery of sums due to Government.
- 45. Power to exempt societies from conditions as to registration.
- 46. Power to exempt registered societies from provisions of the Act.
- 47. Prohibition of the use of the word "co-operative".
- 48. Indian Companies Act, 1882, not to apply.
- 49. Saving of existing societies.
- 50. [*Repealed.*]

Act No. II of 1912.¹

[1st March, 1912.]

An Act to amend the Law relating to Co-operative Societies.

WHEREAS it is expedient further to facilitate the formation of Co-operative Societies for the promotion of thrift and self-help among agriculturists, artisans and persons of limited means, and for that purpose to amend the law relating to Co-operative Societies ; It is hereby enacted as follows :—

Preliminary.

- 1. (1) This Act may be called the Co-operative Societies Act, 1912 ; and
- (2) It extends to the whole of British India.

¹ For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 95 ; for Report of Select Committee, see *ibid.*, 1912, Pt. V, p. 7 ; and for Proceedings in Council, see *ibid.*, 1911, Pt. VI, pp. 186, 679, and *ibid.*, 1912, Pt. VI, pp. 3, 31 and 250.

This Act has been declared to be in force in the Sonthal Parganas by notification under s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872), see B. and O. Gazette, 1913, Pt. II, p. 105 ; and in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3.

It has been repealed in its application to—

- (1) the Bombay Presidency by the Bombay Co-operative Societies Act, 1925 (Bom. 7 of 1925) ;
- (2) the Madras Presidency by the Madras Co-operative Societies Act, 1932 (Mad. 6 of 1932) ;
- (3) Bihar and Orissa by the B. and O. Co-operative Societies Act, 1935 (B. and O. 6 of 1935) ; and
- (4) Orissa, separately, by the Orissa Laws Regulation, 1936 (1 of 1936).

(Registration. Rights and liabilities of members. Duties of registered societies.)

10. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled. Evidence of registration.

11. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar. Amendment of the by-laws of a registered society.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

Rights and liabilities of members.

12. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or by-laws. Member not to exercise rights till due payment made.

13. (1) Where the liability of the members of a registered society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, have one vote only as a member in the affairs of the society. Votes of members.

(2) Where the liability of the members of a registered society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws.

(3) A registered society which has invested any part of its funds in the shares of any other registered society may appoint as its proxy, for the purpose of voting in the affairs of such other registered society, any one of its members.

14. (1) The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules. Restrictions on transfer of share or interest.

(2) In case of a society registered with unlimited liability a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless—

(a) he has held such share or interest for not less than one year; and

(b) the transfer or charge is made to the society or to a member of the society.

Duties of registered societies.

15. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof. Address of societies.

(Registration.)

5. Where the liability of the members of a society is limited by shares, no member other than a registered society shall—

(a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules ; or

(b) have or claim any interest in the shares of the society exceeding one thousand rupees.

6. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members, unless such persons—

(a) reside in the same town or village or in the same group of villages ; or,

(b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(2) The word “ limited ” shall be the last word in the name of every society with limited liability registered under this Act.

7. When any question arises whether for the purposes of this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar, whose decision shall be final.

8. (1) For purposes of registration an application to register shall be made to the Registrar.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 6, sub-section (1) ; and

(b) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

9. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to the Act or to the rules, he may, if he thinks fit, register the society and its by-laws.

(Privileges of registered societies.)

21. Subject to the provisions of section 20, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Presidency-towns Insolvency Act, 1909, nor a Receiver under the ¹Provincial Insolvency Act, 1907, shall be entitled to or have any claim on such share or interest. Shares or interest not liable to attachment.

22. (1) On the death of a member a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws : Transfer of interest on death of member.

Provided that—

(i) in the case of a society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid ;

(ii) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

23. The liability of a past member for the debts of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member. Liability of past member.

24. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease. Liability of the estate of deceased member.

¹ See now the Provincial Insolvency Act, 1920 (5 of 1920).

(Duties of registered societies. Privileges of registered societies.)

16. Every registered society shall keep a copy of this Act and of the rules governing such society, and of its by-laws, open to inspection free of charge at all reasonable times at the registered address of the society.

17. (1) The Registrar shall audit or cause to be audited by some person authorised by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(3) The Registrar, the Collector or any person authorised by general or special order in writing in this behalf by the Registrar shall at all times have access to all the books, accounts, papers and securities of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require.

Privileges of registered societies.

18. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

19. Subject to any prior claim of the ¹[Crown] in respect of land-revenue or any money recoverable as land-revenue or of a landlord in respect of rent or any money recoverable as rent, a registered society shall be entitled in priority to other creditors to enforce any outstanding demand due to the society from a member or past member—

(a) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure—upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan ;

(b) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan, or on any articles manufactured from raw materials so supplied or purchased.

20. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.

¹ Subs. by the A. O. for " Govt. ".

(Privileges of registered societies. Property and funds of registered societies.)

¹[(2) The ²[Government], by notification in the ³[Official Gazette], may, in the case of any registered society or class of registered society, remit—

(a) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable, and

(b) any fee payable under the law of registration for the time being in force.]

⁴[In this sub-section "Government" in relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, proxies and receipts, and in relation to any stamp-duty falling within Item 59 in List I in the Seventh Schedule to the Government of India Act, 1935, means the Central Government, and save as aforesaid means the Provincial Government.]

Property and funds of registered societies.

29. (1) A registered society shall not make a loan to any person other than a member : Restrictions on loans.

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(2) Save with the sanction of the Registrar, a society with unlimited liability shall not lend money on the security of moveable property.

(3) The ²[Provincial Government] may, by general or special order, prohibit or restrict the lending of money on mortgage of immoveable property by any registered society or class of registered societies.

30. A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws. Restrictions on borrowing.

31. Save as provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as the ²[Provincial Government] may, by rules, prescribe. Restrictions on other transactions with non-members.

32. (1) A registered society may invest or deposit its funds—

(a) in the Government Savings Bank, or

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, or Investment of funds.

¹ Ins. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

² Subs. by the A. O. for "L. G."

³ Subs. by the A. O. for "local official Gazette".

⁴ Ins. by the A. O.

(Privileges of registered societies.)

25. Any register or list of members or shares kept by any registered society shall be *primâ facie* evidence of any of the following particulars entered therein :—

- (a) the date at which the name of any person was entered in such register or list as a member ;
- (b) the date at which any such person ceased to be a member.

26. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received, in any suit or legal proceeding, as *primâ facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

27. Nothing in section 17, sub-section (1), clauses (b) and (c), of the Indian Registration Act, 1908, shall apply to—

XVI of 1908.

- (1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property ; or
- (2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or
- (3) any endorsement upon or transfer of any debenture issued by any such society.

¹[28. (1)] The ²[Central Government], by notification³ in the ⁴[Official Gazette], may, in the case of any registered society or class of registered society, remit^{5*} the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits ;

6* * * * * *

¹ The original s. 28 was re-numbered as sub-section (1) of that section by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

² Subs. by the A. O. for " G. G. in C. ".

³ For notifications under this section, see Gen. R. and O., Vol. IV, pp. 340-341.

⁴ Subs. by the A. O. for " Gazette of India ".

⁵ The letter and brackets " (a) " rep. by Act 38 of 1920, s. 2 and Sch. I.

* Clauses (b) and (c) rep. by s. 2 and Sch. I, *ibid.*

(Inspection of affairs. Dissolution of society.)

(2) The Registrar shall communicate the results of any such inspection to the creditor.

37. Where an inquiry is held under section 35, or an inspection is made under section 36, the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society. Costs of inquiry.

38. Any sum awarded by way of costs under section 37 may be recovered, on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person. Recovery of costs.

Dissolution of society.

39. (1) If the Registrar, after an inquiry has been held under section 35 or after an inspection has been made under section 36 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of the society. Dissolution.

(2) Any member of a society may, within two months from the date of an order made under sub-section (1), appeal from such order.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the appellate authority.

(5) The authority to which appeals under this section shall lie shall be the ¹[Provincial Government] :

Provided that the ¹[Provincial Government] may, by notification in the ²[Official Gazette], direct that appeals shall lie to such Revenue-authority as may be specified in the notification.

40. Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten. Cancellation of registration of society.

41. Where the registration of a society is cancelled, the society shall cease to exist as a corporate body— Effect of cancellation of registration.

(a) in the case of cancellation in accordance with the provisions of section 39, from the date the order of cancellation takes effect ;

(b) in the case of cancellation in accordance with the provisions of section 40, from the date of the order.

¹ Subs. by the A. O. for "L. G."

² Subs. by the A. O. for "local official Gazette".

(*Property and funds of registered societies. Inspection of affairs.*)

- (c) in the shares or on the security of any other registered society, or
- (d) with any bank or person carrying on the business of banking approved for this purpose by the Registrar, or
- (e) in any other mode permitted by the rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

33. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members :

Provided that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or by-laws :

Provided also that in the case of a society with unlimited liability no distribution of profits shall be made without the general or special order of the ¹[Provincial Government] in this behalf.

34. Any registered society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding ten per cent. of the remaining net profits to any charitable purpose, as defined in section 2 of the Charitable Endowments Act, 1890. VI of 1890.

Inspection of affairs.

35. (1) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the committee, or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) All officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar or the person authorised by the Registrar may require.

36. (1) The Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society :

Provided that—

- (a) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time ; and
- (b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

¹ Subs. by the A. O. for "I. G."

(Rules.)

Rules.

43. (1) The ¹[Provincial Government] may, for the whole or any part of Rules. the Province and for any registered society or class of such societies, make rules² to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) subject to the provisions of section 5, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member ;
- (b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications ;
- (c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation ;
- (d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interest to be acquired before the exercise of the right of membership ;
- (e) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;
- (f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;
- (g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;
- (h) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society ;
- (i) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted ;
- (j) provide for the persons by whom and the form in which copies of entries in books of societies may be certified ;

¹ Subs. by the A. O. for "L. G.".

² For rules, see different local Rules and Orders.

(Rules. Miscellaneous.)

(5) All rules made under this section shall be published in the ²[Official Gazette], and on such publication shall have effect as if enacted in this Act.

Miscellaneous.

44. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government, including any costs awarded to the Government under section 37, may be recovered in the same manner as arrears of land-revenue. Recovery of sums due to Government.

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society ; secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability ; and, thirdly in the case of other societies, from the members.

45. Notwithstanding anything contained in this Act, the ¹[Provincial Government] may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration. Power to exempt societies from conditions as to registration.

46. The ¹[Provincial Government] may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order. Power to exempt registered societies from provisions of the Act.

47. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word " co-operative " is part without the sanction of the ¹[Provincial Government] : Prohibition of the use of the word " co-operative ".

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees, and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

1882. 48. The provisions of the ³Indian Companies Act, 1882, shall not apply to registered societies. Indian Companies Act, 1882.

1904. 49. Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are in conformity with the express provisions of this Act, continue in force until they are amended.

50. [Repeal.] Rep. by the Second Repealing Act (Act No. 1 of 1914), s. 3 and Sch. II.

¹ Subs. by the A. O. 500 of 1912.

² Subs. by the A. O. 500 of 1912.

³ See now the Indian Companies Act, 1913.

(Rules.)

- (k) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares ;
 - (l) provide that any dispute touching the business of a society between members or past members of the society or persons claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators ;
 - (m) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members ;
 - (n) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred ;
 - (o) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent, to an individual member ;
 - (p) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society ;
 - (q) prescribe the extent to which a society may limit the number of its members ;
 - (r) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies ;
 - (s) subject to the provisions of section 39, determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals ; and
 - (t) prescribe the procedure to be followed by a liquidator appointed under section 42, and the cases in which an appeal shall lie from the order of such liquidator.
- (3) The ¹[Provincial Government] may delegate, subject to such conditions, if any, as it thinks fit, all or any of its powers to make rules under this section to any authority specified in the order of delegation.
- (4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

¹ Subs. by the A. O. for "L. G."

THE INDIAN LUNACY ACT, 1912.

CONTENTS.

PART I.

Preliminary.

CHAPTER I.

SECTIONS.

1. Short title and extent.
 2. Savings.
 3. Definitions.
-

PART II.

Reception, Care and Treatment of Lunatics.

CHAPTER II.

RECEPTION OF LUNATICS.

4. Reception of persons in asylum.

Reception orders on petition.

5. Application for reception order.
6. Application by whom to be presented.
7. Procedure upon petition for reception order.
8. Detention of alleged lunatic pending inquiry.
9. Consideration of petition.
10. Order.
11. Further provisions as to reception orders on petition.
- 11A. Power to appoint substitute for the person upon whose application a reception order has been made.
- 11B. Reception order in case of lunatics from Foreign States in India.

Discharge of lunatics.

SECTIONS.

31. Order of discharge from asylum by visitors.
32. Discharge of lunatics in other cases and of European military lunatics.
33. Order of discharge on undertaking of relative for due care of the lunatic.
34. Discharge of person subsequently found on inquisition not to be of unsound mind.

Removal of lunatics.

35. Removal of lunatics and criminal lunatics.

Escape and re-capture.

36. Order to justify detention and re-capture after escape.

PART III.

Judicial Inquisition as to Lunacy.

CHAPTER IV.

PROCEEDINGS IN LUNACY IN PRESIDENCY-TOWNS.

Inquisition.

37. Jurisdiction in lunacy in Presidency-towns.
38. Court may order inquisition as to persons alleged to be insane.
39. Application by whom to be made.
40. Notice of time and of place of inquisition.
41. Powers of Court in respect of attendance and examination of lunatic.
42. Rules respecting attendance and examination of females alleged to be lunatic.
43. Power to direct District Court to make inquisition in certain cases.
44. Amendment of finding of District Court if defective or insufficient in form.
45. Proceedings on finding of Court.

Judicial powers over person and estate of lunatic.

46. Custody of lunatics and management of their estates.
47. Powers of manager in respect of management of lunatic's estate.
48. Power to make order concerning any matter connected with the lunacy.

(Part I.—Preliminary. Chapter I. Part II.—Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.)

1898.
f 1900.
of 1911. (4) "criminal lunatic" means any person for whose ¹[detention] in, or removal to an asylum, jail or other place of safe custody an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure, 1898, or of section 30 of the Prisoners Act, 1900, ²[or of section 103A of the Indian Army Act, 1911] :

(5) "lunatic" means an idiot or person of unsound mind :

(6) "Magistrate" means a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or a Magistrate of the first class specially empowered by the ³[Provincial Government] to perform the functions of a Magistrate under this Act :

(7) "medical officer" means a gazetted ⁴[medical officer in the service of the Crown], and includes a medical practitioner declared by general or special order of the ³[Provincial Government] to be a medical officer for the purposes of this Act :

(8) "medical practitioner" means a holder of a qualification to practise medicine and surgery which can be registered in the United Kingdom in accordance with the law for the time being in force for the registration of medical practitioners, and includes any person declared by general or special order of the ³[Provincial Government] to be a medical practitioner for the purposes of this Act :

(9) "prescribed" means prescribed by this Act or by rule made thereunder :

(10) "reception order" means an order made under the provisions of this Act for the reception into an asylum of a lunatic other than a lunatic so found by inquisition :

(11) "relative" includes any person related by blood, marriage or adoption : and

(12) "rule" means a rule made under this Act.

PART II.

Reception, care and treatment of Lunatics.

CHAPTER II.

RECEPTION OF LUNATICS.

4. (1) No person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in an asylum ~~without a reception order~~ order save as provided by sections 8, 16 and 38 :

¹ Subs. by the Repealing and Amending Act, 1923 (11 of 1923) for "detention or confinement".

² Ins. by the Indian Army (Amendment) Act, 1923 (32 of 1923).

³ Subs. by the A. O. for "L. G."

⁴ Subs. by the A. O. for "medical officer of Government".

Judicial powers over person and estate of lunatic.

SECTIONS.

67. Custody of lunatics and management of their estates.
 68. Court of Wards to be authorised in certain cases to take charge of estate of lunatic.
 69. Power to direct Collector to take charge of person and estate of lunatic in certain cases.
 70. Control over proceedings of Collector.
 71. Power of District Court to appoint guardian and manager and take security from manager.
 72. Restriction on appointment of legal heir of lunatic to be guardian of his person.
 73. Remuneration of managers and guardians.
 74. Duties of guardian.
 75. Powers of manager.
 76. Manager to furnish inventory and annual accounts.
 77. Proceeding if accuracy of inventory or accounts is impugned.
 78. Payment into public treasury and investment of proceeds of estate.
 79. Relative may sue for an account.
 80. Removal of managers and guardians.
 81. Penalty on manager for refusing to deliver accounts or property.
 82. Proceedings in lunacy to cease or to be set aside if Court finds that the unsoundness of mind has ceased.
 83. Appeals.
-

PART IV.**Miscellaneous.****CHAPTER VI.****ESTABLISHMENT OF ASYLUMS.**

84. Provincial Government may establish or license the establishment of asylums.
- 84A. Power to cancel licence if provision for curative treatment is insufficient.
85. Provision for admission of lunatics in asylums outside a Province.

II.—Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.)

1) ¹[If the petition is not presented by the husband or wife, or, where there is no husband or wife, by the nearest relative of the alleged lunatic, the petition] shall contain a statement of the reasons why it is not so presented, and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition.

2) No person shall present a petition unless he has attained the age of majority as determined by the law to which he is subject, and has within seven days before the presentation of the petition, personally seen the said lunatic.

3) The petition shall be signed and verified by the petitioner, and the statement of prescribed particulars by the person making such statement.

4) (1) Upon the presentation of the petition the Magistrate shall consider the allegations in the petition and the evidence of lunacy appearing by medical certificates. Proceed upon petition for reception order.

2) If he considers that there are grounds for proceeding further, he shall personally examine the alleged lunatic unless for reasons to be recorded in writing he thinks it unnecessary or inexpedient so to do.

3) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.

4) If he is not so satisfied, he shall fix a date (notice whereof shall be given to the petitioner and to any other person to whom in the opinion of the Magistrate notice should be given) for the consideration of the petition, and he may make such further or other inquiries of or concerning the alleged lunatic as he thinks fit.

5) Upon the presentation of the petition, the Magistrate may make such order as he thinks fit for the suitable custody of the alleged lunatic pending the conclusion of the inquiry. Detention of alleged lunatic pending inquiry.

6) The petition shall be considered in private in the presence of the petitioner, the alleged lunatic (unless the Magistrate in his discretion otherwise directs), any person appointed by the alleged lunatic to represent him and any other persons as the Magistrate thinks fit. Consideration of petition.

7) 10. (1) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or adjourn the same for further evidence or inquiry, and may make such order as to the payment of the costs of the inquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise as he thinks fit. Order.

(2) If the petition is dismissed, the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

¹ Subs. by the Indian Lunacy Amendment Act, 1926 (5 of 1926), s. 2, for "If the petition is not so presented, it".

(Part I.—Preliminary. Chapter I.)

ACT NO. IV OF 1912.¹

[16th March, 1912.]

An Act to consolidate and amend the law relating to Lunacy.

WHEREAS it is expedient to consolidate and amend the law relating to lunacy ; It is hereby enacted as follows :—

PART I.

Preliminary.

CHAPTER I.

1. (1) This Act may be called the Indian Lunacy Act, 1912.

(2) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas, and the Pargana of Spiti.

2. Nothing contained in Part II shall be deemed to affect the powers of any High Court which is or hereafter may be ²[constituted by His Majesty by Letters Patent], over any person found to be a lunatic by inquisition or over the property of such lunatic, or the rights of any person appointed by such Court as guardian of the person or manager of the estate of such lunatic.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) “asylum” means an asylum ³[or mental hospital] for lunatics established or licensed ⁴[by any Government in British India] :

(2) “cost of maintenance” in an asylum includes the cost of lodging, maintenance, clothing, medicine and care of a lunatic and any expenditure incurred in removing such lunatic to and from an asylum ⁵[together with any other charges specified in this behalf by the ⁵[Provincial Government]], in exercise of any power conferred upon ⁶[it] by this Act] :

(3) “District Court” means the principal Civil Court of original jurisdiction in any area outside the local limits for the time being of the Presidency-towns :

¹ For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 147 ; for Report of Select Committee, see *ibid.*, 1912, Pt. V, p. 57 ; and for Proceedings in Council, see *ibid.*, 1911, Pt. VI, p. 655, and *ibid.*, 1912, Pt. VI, pp. 3, 30, 187 and 458.

This Act except Chapter IV has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

² Subs. by the A. O. for “established under the Indian High Courts Acts, 1861 to 1911”.

³ Ins. by the Indian Lunacy (Amendment) Act, 1922 (6 of 1922), s. 2.

⁴ Subs. by the A. O. for “by Govt.”

⁵ Subs. by the A. O. for “G. G. in C.”

⁶ Subs. by the A. O. for “him”.

(Part II.—*Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.*)

lunatic, unless, for reasons to be recorded in writing, the Magistrate considers that such preference would not be in the interests of the lunatic.

(5) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person who is a party thereto or out of the estate of the lunatic, as he thinks fit.

(6) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended.]

¹[11B.] (1) When an arrangement has been made with any foreign European State with respect to the reception of lunatics in asylums in British India, the ²[Central Government] may, by notification in the ³[Official Gazette], direct that reception orders may be made under this Act in the case of any lunatic or class of lunatics residing in the territories in India of such foreign European State, and shall in such notification specify the province or provinces within which such reception orders may be made.

Reception order in case of lunatics from foreign States in India.

(2) On publication of a notification under sub-section (1), the provisions of this Act as to the making of reception orders on petition and for temporary detention in suitable custody shall apply in the case of such lunatics, with the following modifications, namely :—

(a) an application for a reception order may be made by petition presented by such officer or agent of the foreign State in which the alleged lunatic ordinarily resides, as may by general or special order be approved by the ⁴[Provincial Government] in this behalf ;

(b) the functions of the Magistrate shall be performed by such officer as the ⁴[Provincial Government] may, by general or special order, appoint in this behalf, and such officer shall be deemed to be the Magistrate having jurisdiction over the alleged lunatic for all the purposes of the said provisions ;

(c) for the purposes of sections 5 and 18 (1), the expressions “ medical officer ” and “ medical practitioner ” shall include such person or class of persons as the ⁴[Provincial Government] may specify in this behalf ;

(d) the Magistrate may in his discretion extend the period prescribed by section 19 within which the alleged lunatic must have been medically examined ; and

(e) sections 6 (1), (2), (3), 11, ⁵[11A] and 34 of the Act, shall not apply, and with such other modifications, restrictions or adaptations as the

¹ This section was originally ins. as s. 11A by the Indian Lunacy (Amendment) Act, 1916 (12 of 1916), and was renumbered as s. 11B by the Indian Lunacy (Amendment) Act, 1926 (5 of 1926), s. 3.

² Subs. by the A. O. for “ G. G. in C.”

³ Subs. by the A. O. for “ Gazette of India ”.

⁴ Subs. by the A. O. for “ L. G.”

⁵ Ins. by the Indian Lunacy (Amendment) Act, 1926 (5 of 1926), s. 4.

(Part II.—Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.)

Provided that any person in charge of an asylum may, with the consent of two of the visitors of such asylum, which consent shall not be given except upon a written application from the intending boarder, receive and lodge as a boarder in such asylum any person who is desirous of submitting himself to treatment.

(2) A boarder received in an asylum under the proviso to sub-section (1) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave such asylum.

Reception orders on petition.

5. (1) An application for a reception order shall be made by petition accompanied by a statement of particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of which certificates shall be from a medical officer.

(2) If either of the medical certificates is signed by any relative, partner or assistant of the lunatic or of the petitioner, the petition shall state the fact and, where the person signing is a relative, the exact manner in which he is related to the lunatic or petitioner.

(3) The petition shall also state whether any previous application has been presented for an inquiry into the mental capacity of the alleged lunatic in any Court; and if such application has been made, a certified copy of the order made thereon shall be attached to the petition.

(4) No application for a reception order shall be entertained in any area outside the Presidency-towns unless the ¹[Provincial Government] has, by notification² in the ³[Official Gazette], declared such area as an area in which reception orders may be made.

6. ⁴[(1) Subject to the provisions of sub-section (3) the petition shall be presented by the husband or wife of the alleged lunatic, or, if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from India or otherwise from making the presentation, by the nearest relative of the alleged lunatic who is not so prevented.]

¹ Subs. by the A. O. for "L. G."

² For such a notification by the Government of Bengal, see Calcutta Gazette, 1913, Part I, p. 1630; by Bihar and Orissa, see B. and O. Gazette, 1913, Part II, p. 1392; by Madras, see Madras local Rules and Orders, 1923, Vol. I, p. 437; by Bombay, see Bombay local Rules and Orders, 1924, Vol. II, p. 694; by U. P., see U. P. Gazette, 1914, Part I, p. 496; by Assam, see Assam Gazette, 1917, Part II, p. 1364.

³ Subs. by the A. O. for "local official Gazette".

⁴ Subs. by the Indian Lunacy (Amendment) Act, 1926 (5 of 1926), s. 2, for the original sub-section.

[Part II.—Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.)

11. No reception order shall be made under section 7 or section 10, save in the case of a lunatic who is dangerous and unfit to be at large, unless—

- (a) the Magistrate is satisfied that the person in charge of an asylum is willing to receive the lunatic, and
- (b) the petitioner or some other person engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic.

¹[11A. (1) The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duties and responsibilities under this Act of the person on whose petition a reception order has been made to any other person who is willing to undertake the same, and such other person shall thereupon be deemed for the purposes of this Act to be the person on whose petition the reception order was made, and all references in this Act to such last-mentioned person shall be construed accordingly :

Provided that no such order of substitution shall release the person upon whose petition the reception order was made or, if he is dead, his legal representative from any liability incurred before the order of substitution was made.

(2) Before making any order of substitution, the Magistrate shall send a notice to the person upon whose petition the reception order was made, if he is alive, and to any relative of the lunatic to whom, in the opinion of the Magistrate, notice should be given ; the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(3) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent, or by any other relative of the lunatic, and shall receive all such evidence as may be produced by or on behalf of any of such persons and such further evidence, if any, as the Magistrate thinks necessary, and may thereafter make or refrain from making an order of substitution :

Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate, fitted to undertake the duties and responsibilities under this Act of such first-mentioned person, the Magistrate shall make such an order.

(4) If in proceedings under this section any question arises as to the person to whom the duties and responsibilities under this Act of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the

¹ S. 11A was ins. by the Indian Lunacy (Amendment) Act, 1926 (5 of 1926), s. 3.

(Part II.—Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.)

¹[Provided that no reception order shall continue to have effect—

- (a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or
- (b) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed.]

21. Any authority making a reception order under this Part shall forthwith send a certified copy of the order to the person in charge of the asylum into which such lunatic is to be admitted.

Copy of reception order to be sent to person in charge of asylum.

22. Subject to the provisions of section 85, no Magistrate shall make a reception order for the admission of any lunatic into ²[any Government asylum] outside the province in which the Magistrate exercises jurisdiction.

Restriction as to asylums into which reception orders may direct admission.

Detention of lunatics pending removal to asylum.

23. When any reception order has been made under sections 7, 10, 14 or 15, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to an asylum, be detained in suitable custody in such place as the Magistrate thinks fit.

Detention of lunatics pending removal to asylum.

Reception and detention of criminal lunatics.

24. An order under section 466 or section 471 of the Code of Criminal Procedure, 1898, or under section 30 of the Prisoners Act, 1900 ³[or under section 103A of the Indian Army Act, 1911], directing the reception of a criminal lunatic into any asylum which is prescribed for the reception of criminal lunatics shall be sufficient authority for the reception and detention of any person named therein in such asylum or in any other asylum to which he may be lawfully transferred.

Reception and detention of criminal lunatics.

Reception after inquisition.

25. A lunatic so found by inquisition may be admitted into an asylum—
- (1) in the case of an inquisition under Chapter IV, on an order made by, or under the authority of, the High Court ;
 - (2) in the case of an inquisition under Chapter V, on an order made by the District Court.

Reception after inquisition.

26. (1) When any lunatic has been admitted into an asylum in accordance with the provisions of section 25, the High Court or the District Court,

Order for payment of cost of

¹ Ins. by the Indian Lunacy (Amendment) Act, 1923 (32 of 1923), s. 2.

² Subs. by the A. O. for "any asylum established by Govt."

³ Ins. by the Indian Army (Amendment) Act, 1923 (33 of 1923), s. 5.

(Part II.—Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics.)

¹[Central Government] may, by notification in the ²[Official Gazette], direct for the purpose of facilitating the application of the said provisions.

(3) A reception order made under this section shall be deemed to be a reception order made under section 7 or section 10, as the case may be.

Reception orders otherwise than on petition.

12. When any European who is subject to the provisions of the ³Army Act ^{44 & 45} ⁴[the Naval Discipline Act or that Act as modified by the Indian Navy Discipline) Act, 1934,] ⁵[the Air Force Act or the Indian Air Force Act, 1934.] ⁶[the Air Force Act or the Indian Air Force Act, 1932] has been declared a lunatic in accordance with the provisions of the military ⁴[, naval] ⁶[or air force] regulations in force for the time being, and it appears to any administrative medical officer that he should be removed to an asylum, such administrative medical officer may, if he thinks fit, make a reception order under his hand for the admission of the said lunatic into any asylum which has been duly authorised⁷ for the purpose by the ¹[Central Government].

13. (1) Every officer in charge of a police-station may arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be lunatics, and shall arrest or cause to be arrested all persons within the limits of his station whom he has reason to believe to be dangerous by reason of lunacy. Any person so arrested shall be taken forthwith before the Magistrate.

(2) Every officer in charge of a police-station who has reason to believe that any person within the limits of his station is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, shall immediately report the fact to the Magistrate.

14. Whenever any person is brought before a Magistrate under the provisions of sub-section (1) of section 13, the Magistrate shall examine such person, and if he thinks that there are grounds for proceeding further, shall cause him to be examined by a medical officer, and may make such other inquiries as he thinks fit; and if the Magistrate is satisfied that such person is a lunatic and a proper person to be detained, he may, if the medical officer who has examined such person gives a medical certificate with regard to

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the A. O. for "Gazette of India".

³ Coll. Stats., Vol. I.

⁴ Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

⁵ Subs. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch., for "or the Air Force Act" which had been ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

⁶ Ins. by Act 10 of 1927, s. 2 and Sch. I.

⁷ For notifications under this section, see Gen. R. & O., Vol. IV, pp. 342-343.

(Part II.—^{RECEIVED}Reception, Care and Treatment of Lunatics. Chapter III.—Care and Treatment. Part III.—Judicial Inquisition as to Lunacy. Chapter IV.—Proceedings in Lunacy in Presidency-towns.)

1898. of 1911. (2) The ¹[Provincial Government] may make such general or special order as ²[it] thinks fit directing the removal of any person for whose ³[detention] an order has been made under section 466 or section 471 of the Code of Criminal Procedure, 1898, ⁴[or under section 103A of the Indian Army Act, 1911], from the place where he is for the time being ⁵[detained] to any asylum, jail or other place of safe custody ⁶[in the province, or to any asylum, jail or other place of safety in any other province with the consent of the ⁷[Provincial Government] of that province.]

Escape and re-capture.

36. Every person received into an asylum under any such order as is required by this Act, may be detained therein until he is removed or discharged as authorised by law, and in case of escape may, by virtue of such order, be re-taken by any police-officer or by the person in charge of such asylum, or any officer or servant belonging thereto, or any other person authorised in that behalf by the said person in charge, and conveyed to and received and detained in such asylum :

Provided that in the case of a lunatic not being a criminal lunatic or a lunatic in respect of whom a reception order has been made under section 12, the power to re-take such escaped lunatic under this section shall be exercisable only for a period of one month from the date of his escape.

PART III.

Judicial Inquisition as to Lunacy.

CHAPTER IV.

PROCEEDINGS IN LUNACY IN PRESIDENCY-TOWNS.

Inquisition.

37. The Courts having jurisdiction under this Chapter shall be the High Courts of Judicature at Fort William, Madras and Bombay.

Jurisdiction in lunacy in Presidency-towns.

¹ Subs. by the A. O. for the words "L. G.", which were subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for "G. G. in C."

² Subs. by Act 38 of 1920, s. 2 and Sch. I, for "he".

³ Subs. by the Repealing and Amending Act, 1923 (11 of 1923), s. 2 and Sch. I, for "confinement".

⁴ Ins. by the Indian Army (Amendment) Act, 1923 (33 of 1923), s. 5.

⁵ Subs. by Act 11 of 1923, s. 2 and Sch. I, for "confined".

⁶ Subs. by Act 38 of 1920, s. 2 and Sch. I, for "in British India".

⁷ Subs. by the A. O. for "L. G."

(Part II.—*Reception, Care and Treatment of Lunatics.* Chapter II.—*Reception of Lunatics.*)

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate.

17. All acts which the Magistrate is authorised or required to do by sections 14, 15 or 16 may be done in the Presidency-towns ^{1*} * * * by the Commissioner of Police; and all duties which an officer in charge of a police-station is authorised or required to perform may be performed in any of the Presidency-towns by an officer of the police force not below the rank of an inspector.

Further provisions as to reception orders and medical certificates.

18. (1) Every medical certificate under this Act shall be made and signed by a medical practitioner or a medical officer, as the case may be, and shall be in the form prescribed.

(2) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and no reception order on petition shall be made upon a certificate founded only upon facts communicated by others.

(3) Every medical certificate made under this Act shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath.

19. (1) A reception order required to be founded on a medical certificate shall not be made unless the person who signs the medical certificate, or, where two certificates are required, each person who signs a certificate has personally examined the alleged lunatic, in the case of an order upon petition, not more than seven clear days before the date of the presentation of the petition, and, in all other cases not more than seven clear days before the date of the order.

(2) Where two medical certificates are required, a reception order shall not be made unless each person signing a certificate has examined the alleged lunatic separately from the other.

20. A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorised by him, or in the case of an order not made upon petition, for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, or in any asylum to which he may be removed in accordance with the provisions of this Act, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order :

¹ The words "or Rangoon", rep. by the A. O.

(Part II.—*Reception, Care and Treatment of Lunatics. Chapter II.—Reception of Lunatics. Chapter III.—Care and Treatment.*)

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as the case may be, shall, on the application of the person in charge of the asylum, make an order for the payment of the cost of maintenance of the lunatic in the asylum, and may from time to time direct that any sum of money payable under such order shall be recovered from the estate of the lunatic or of any person legally bound to maintain him :

Provided that if at any time it shall appear to the satisfaction of the Court that the lunatic has not sufficient property, and that no person legally bound to maintain such lunatic has sufficient means for the payment of such cost, the Court shall certify the same instead of making such order for the payment of the cost as aforesaid.

(2) An order under sub-section (1) shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as a decree made by the Court in a suit in respect of the property or person therein mentioned.

Amendment of order or certificate.

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27. If, after the reception of any lunatic into any asylum on a reception order, it appears that the order upon which he was received or the medical certificate or certificates upon which such order was made is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer.

CHAPTER III.

CARE AND TREATMENT.

Visitors.

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28. (1) The ¹[Provincial Government] shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer.

(2) The Inspector-General of Prisons (where such office exists) shall be a visitor *ex-officio* of all the asylums within the limits of his jurisdiction.

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29. Two or more of the visitors, one of whom shall be a medical officer, shall, once at least in every month, together inspect every part of the asylum of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic and boarder therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the inmates thereof.

¹ Subs. by the A. O. for "I. G."

(Part III.—Judicial Inquisition as to Lunacy. Chapter V.—Proceedings in Lunacy outside Presidency-towns.)

CHAPTER V.

PROCEEDINGS IN LUNACY OUTSIDE PRESIDENCY-TOWNS.

Inquisition.

62. Whenever any person not subject to the jurisdiction of any of the Courts mentioned in section 37 is possessed of property and is alleged to be a lunatic, the District Court, within whose jurisdiction such person is residing may, upon application, by order direct an inquisition for the purpose of ascertaining whether such person is of unsound mind and incapable of managing himself and his affairs.

Power of District Court to institute inquisition as to persons alleged to be lunatic.

Lunacy.

63. (1) Application for such inquisition may be made by any relative of the alleged lunatic or by any public Curator appointed under the Succession (Property Protection) Act, 1841 (hereinafter referred to as the Curator), or by the Government Pleader, as defined in the Code of Civil Procedure, 1908, or if the property of the alleged lunatic consists in whole or in part of land or any interest in land, by the Collector of the district in which it is situate.

Application by whom to be made.

(2) If the property or any part thereof is of such a description that it would by the law in force in any Province where such property is situate subject the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

64. The provisions of sections 40, 41 and 42 shall regulate the proceedings of the District Court with regard to the matters to which they relate.

Regulation of proceedings of District Courts.

65. (1) The District Court, if it thinks fit, may appoint two or more persons to act as assessors to the Court in the said inquisition.

Inquisition by District Court and finding thereon.

(2) Upon the completion of the inquisition, the Court shall determine whether the alleged lunatic is of unsound mind and incapable of managing himself and his affairs or may come to a special finding that such alleged lunatic is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others.

66. (1) If the alleged lunatic resides at a distance of more than fifty miles from the place where the District Court is held to which the application is made, the said Court may issue a Commission to any subordinate Court to

Inquisition by subordinate Court on commission issued

¹ See now the Indian Succession Act, 1925 (39 of 1925).

(Part II.—*Reception, Care and Treatment of Lunatics.* Chapter III.—*Care and Treatment.*)

(3) Whenever it appears to the officer in charge of an asylum that the discharge of a person therein detained under an order made under section 12 is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the General or other Officer Commanding the division, district, brigade, or force, or other officer authorised to order the admission of such persons into an asylum, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the military ¹[, naval] ²[or air force] regulations in force for the time being.

33. When any relative or friend of a lunatic detained in any asylum under the provisions of sections 14, 15 or 17 is desirous that such lunatic shall be delivered over to his care and custody, he may make application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a medical officer, and upon such relative or friend entering into a bond with or without sureties for such sum of money as the said authority thinks fit conditioned that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or to others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

34. If any lunatic detained in an asylum on a reception order made under sections 7, 10, 14, 15 or 17 is subsequently found on an inquisition under Chapter IV or Chapter V not to be of unsound mind and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum.

Removal of lunatics.

35. (1) ³[Any lunatic may, in accordance with any general or special order of the ⁴[Provincial Government], be removed from ⁵[any Government asylum] to any other asylum within the province, or to any other asylum in any other province, with the consent of the ⁴[Provincial Government] of that province :]

Provided that no lunatic admitted into an asylum on a reception order made on petition shall be removed in accordance with the provisions of this sub-section until notice of such intended removal has been given to the petitioner.

¹ Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

² Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

³ Subs. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I, for the original words.

⁴ Subs. by the A. O. for "L. G."

⁵ Subs. by the A. O. for "any asylum established by Govt."

(Part III.—Judicial Inquisition as to Lunacy. Chapter V.—Proceedings in Lunacy outside Presidency-towns.)

71. (1) In all other cases the District Court shall appoint a manager of the estate of the lunatic and may appoint a guardian of his person :

Power of District Court to appoint guardian and manager and take security from manager.

Provided that a District Court may, instead of appointing a manager of the estate of a lunatic, exercise any of the powers conferred on the High Court under sections 56 and 59.

(2) Any person who has been appointed by the District Court or Collector to manage the estate of a lunatic shall, if so required, enter into a bond in such form and with such sureties as to the Court or the Collector, as the case may be, may seem fit, engaging duly to account for what he may receive in respect of the property of the lunatic.

72. The legal heir of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the Court or the Collector, as the case may be, for reasons to be recorded in writing, considers that such an appointment is for the benefit of the lunatic.

Restriction on appointment of legal heir of lunatic to be guardian of his person.

73. A guardian of the person of a lunatic or a manager of his estate appointed under this Chapter shall be paid such allowance, if any, as the Court or the Collector, as the case may be, thinks fit for his care and pains in the execution of his duties.

Remuneration of managers and guardians.

74. (1) The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance.

Duties of guardian.

(2) When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Collector, as the case may be, for the maintenance of the lunatic and such members of his family as are dependent on him for their maintenance.

75. (1) Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic, and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic :

Powers of manager.

Provided that no manager so appointed shall without the permission of the Court—

- (a) mortgage, charge, or transfer by sale, gift, exchange or otherwise any immoveable property of the lunatic,
- (b) lease any such property for a term exceeding five years.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

(2) Before granting any such permission, the Court may cause notice of the application for such permission to be served on any relative or friend of the lunatic, and may make or cause to be made such inquiries as to the Court may seem necessary in the interests of the lunatic.

(Part III.—Judicial Inquisition as to Lunacy. Chapter IV.—Proceedings in Lunacy in Presidency-towns.)

38. (1) The Court may upon application by order direct an inquisition as whether a person subject to the jurisdiction of the Court who is alleged to be lunatic, is of unsound mind and incapable of managing himself and his affairs.

(2) Such order may also contain directions for inquiries concerning the nature of the property belonging to the alleged lunatic, the persons who are his relatives, the time during which he has been of unsound mind, or such other matters as to the Court may seem proper.

39. Application for such inquisition may be made by any relative of the alleged lunatic, or by the Advocate-General.

40. (1) Notice shall be given to the alleged lunatic of the time and place at which it is proposed to hold the inquisition.

(2) If it appears that personal service on the alleged lunatic would be ineffectual, the Court may direct such substituted service of the notice as it thinks fit.

(3) The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic and upon any other person to whom in the opinion of the Court notice of the application should be given.

41. (1) The Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

(2) The Court may likewise make an order authorising any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

42. The attendance and examination of the alleged lunatic under the provisions of section 41 shall, if the alleged lunatic be a woman who, according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the law and practice for the examination of such persons in other civil cases.

43. (1) If the alleged lunatic is not within the local limits of the jurisdiction of the Court, and the inquisition cannot conveniently be made in the manner hereinbefore provided, the Court may direct the inquisition to be made before the District Court within whose local jurisdiction the alleged lunatic may be ; and such District Court shall accordingly proceed to make such inquisition in the same manner as if the alleged lunatic were subject to its jurisdiction, and shall certify its finding upon the matters of inquisition to the Court directing the inquisition.

(2) The record of evidence taken upon the inquisition shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the inquisition was directed.

44. If the finding of the District Court appears to the Court directing the inquisition to be defective or insufficient in point of form, it may either

(Part III.—Judicial Inquisition as to Lunacy. Chapter V.—Proceedings in Lunacy outside Presidency-towns. Part IV.—Miscellaneous. Chapter VI.—Establishment of Asylums.)

compel any manager removed under this section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

81. The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court, and may realize such fine as if it were a sum due under a decree of the Court, and may also commit the recusant to the civil jail until he delivers such accounts or property. Penalty on manager for refusing to deliver accounts or property.

82. (1) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs. Proceedings in lunacy to cease or to be set aside if Court finds that the unsoundness of mind has ceased.

(2) The inquiry shall, as far as may be, be conducted in the same manner as is prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

83. An appeal shall lie to the High Court from any order made by a District Court, under this Chapter. Appeals.

PART IV.

Miscellaneous.

CHAPTER VI.

ESTABLISHMENT OF ASYLUMS.

84. The ¹[Provincial Government] may establish or license the establishment of asylums at such places as it thinks fit ²[if it is satisfied that provision has been or will be made for the curative treatment therein of persons suffering from mental diseases.] Provincial Government may establish or license the establishment of asylums.

³[84A. If in any licensed asylum no provision for curative treatment has been made, or the ¹[Provincial Government] considers that the Power to cancel licence if

¹ Subs. by the A. O. for "L. G."

² Ins. by the Indian Lunacy (Amendment) Act, 1922 (6 of 1922), s. 3.

³ Ins. by s. 4, *ibid*.

(Part IV.—Miscellaneous. Chapter VII.—Expenses of Lunatics.)

89. (1) The Court shall inquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may make an order for the recovery of the cost of maintenance of such lunatic, together with the costs of the application out of such estate or from such person.

Order of Court and enforcement thereof.

(2) Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal as a decree made by the said Court in a suit in respect of the property or person therein mentioned.

¹[89A. (1) In computing the amount payable on account of the cost of maintenance of lunatics detained in any asylum for the cost of whose maintenance any Provincial Government is liable, charges may be included on account of the upkeep of the asylum and of the capital cost of establishment thereof.

Fixation of cost of maintenance.

(2) In the case of any such lunatic under detention immediately before the commencement of Part III of the Government of India Act, 1935, the amount payable by any Provincial Government on account of the cost of his maintenance shall be determined in accordance with any general or special orders of the Governor-General in Council in force immediately before that date and applicable to his case.]

³[89B. (1) When under the provisions of this Act the cost of the maintenance of a lunatic is payable by the Government, then such cost shall be payable—

Incidence of costs of maintenance payable by Government.

(a) in the case of a lunatic not domiciled in British India, by the ⁴[Provincial Government] of the province in which the reception order or the order under section 25, as the case may be, was made ; and

(b) in the case of a lunatic domiciled in British India, by the ⁴[Provincial Government] of the province in which the lunatic has last resided for a period of five years before the reception order or the order under section 25, as the case may be, was made ; or, if the lunatic has not been resident in any one province for such period, by the ⁴[Provincial Government] of the province in which such order was made.

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90. The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

Saving of liability of relatives to maintain lunatic.

¹ Subs. by the A. O. for the original s. 89A which was ins. by the Indian Lunacy (Amendment) Act, 1922 (6 of 1922), s. 5.

² Part III of the G. of I. Act, 1935, came into force on the 1st April, 1937.

³ Ins. by Act 6 of 1922, s. 5.

⁴ Subs. by the A. O. for "I. G."

⁵ Sub-section (2) rep. by the A. O.

(Part III.—Judicial Inquisition as to Lunacy. Chapter IV.—Proceedings in Lunacy in Presidency-towns.)

Vesting orders.

57. Where any stock or Government securities or any share in a company (transferable within British India or the dividends of which are payable there) is or are standing in the name of, or vested in, a lunatic, beneficially entitled thereto, or in a manager of the estate of a lunatic, or in a trustee for him, and the manager dies intestate, or himself becomes lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the manager is living or dead, or he neglects or refuses to transfer the stock, securities or shares, or to receive and pay over thereof the dividends to a new manager or as the Court directs, within fourteen days after being required by the Court to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court directs.

58. Where any such stock or Government securities or share in a company is or are standing in the name of, or vested in, any person residing out of British India and not in any part of the United Kingdom, the Court upon being satisfied that such person has been declared lunatic; and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may order some fit person to make such transfer of the stock, securities or shares or of any part thereof, to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends and proceeds as the Court thinks fit.

General.

59. If it appears to the Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of such members of his family as are dependent on him for their maintenance, the Court may, in like manner as under section 56, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

60. (1) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the Court that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

(2) The inquiry shall be conducted as far as may be in the manner prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic ; and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

61. The Court may, from time to time, make rules for the purpose of carrying into effect the provisions of this Chapter in matters of lunacy.

(Part IV.—Miscellaneous. Chapter IX.—Supplemental Provisions.)

CHAPTER IX.

SUPPLEMENTAL PROVISIONS.

93. Any person who—

(a) otherwise than in accordance with the provisions of this Act receives or detains a lunatic or alleged lunatic in an asylum,
or

(b) for gain detains two or more lunatics in any place not being an asylum,

Penalty for improper reception or detention of lunatic.

shall be punishable with imprisonment which may extend to two years or with fine or with both.

94. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act.

Provision as to bonds.

95. (1) When any sum is payable in respect of pay, pension, gratuity, or other similar allowance to any person ¹[by the Secretary of State or any Government in British India] and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the Government officer under whose authority such sum would be payable if the payee were not a lunatic may pay so much of the said sum as he thinks fit to the person having charge of the lunatic, and may pay the surplus, if any, or such part thereof, as he thinks fit for the maintenance of such members of the lunatic's family as are dependent on him for maintenance.

Pension of lunatic payable by Government.

(2) ²[The Secretary of State or, as the case may be, the Government concerned] shall be discharged of all liability in respect of any amounts paid in accordance with this section.

96. Subject to any rules, the forms set forth in the First Schedule, with such variation as the circumstances of each case may require, shall be used for the respective purposes therein mentioned, and if used shall be sufficient.

Use of forms in Schedule.

97. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting under Act. -

¹ Subs. by the A. O. for "by Govt."

² Subs. by the A. O. for "The Secretary of State for India in Council".

(Part III.—*Judicial Inquisition as to Lunacy. Chapter V.—Proceedings in Lunacy outside Presidency-towns.*)

make the inquisition, and such subordinate Court shall thereupon conduct the inquisition in the manner hereinbefore provided in this Chapter.

(2) On the completion of the inquisition the subordinate Court shall transmit the record of its proceedings with the opinions of the assessors if assessors have been appointed, and its own opinion on the case; and the District Court shall thereupon proceed to dispose of the application in the manner provided in section 65, sub-section (2):

Provided that the District Court may direct the subordinate Court to make such further or other inquiries as it thinks fit before disposing of the application.

Judicial powers over person and estate of lunatic.

67. (1) The Court may make orders for the custody of lunatics so found by inquisition and the management of their estates.

(2) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others, the Court may make such orders as it thinks fit for the management of the estate of the lunatic including proper provisions for the maintenance of the lunatic and of such members of his family as are dependent on him for maintenance, but it shall not be necessary to make any order as to the custody of the person of the lunatic.

68. If the estate of a lunatic so found or any part thereof consists of property which, by the law for the time being in force, subjects the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the Court of Wards shall be authorised to take charge of the same.

69. (1) If the estate of a lunatic so found consists in whole or in part of land or any interest in land, but is not of such a nature that it would subject the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the District Court may direct the Collector to take charge of the person and estate of the lunatic :

Provided that no such order shall be made without the consent of the Collector previously obtained.

(2) The Collector shall thereupon appoint a manager of the estate, and may appoint a guardian of the person of the lunatic.

70. All proceedings of the Collector in regard to the person or estate of a lunatic under this Chapter shall be subject to the control of the ¹[Provincial Government] or of such authority as it may appoint in this behalf.

¹ Subs. by the A. O. for "L. G."

(Schedule I.—Forms.)

Whether the patient is addicted to alcohol, or the use of opium, ganja, charas, bhang, cocaine or other intoxicant.

[The statements contained or referred to in paras. are true to my knowledge. The other statements are true to my information and belief.]

[Signature by person
making the statement.]

FORM 2.

Reception Order on Petition.

(See sections 7, 10.)

I, the undersigned E. F., being a Presidency Magistrate of [or the District Magistrate of or the Sub-Divisional Magistrate of or a Magistrate of the first class specially empowered by Government to perform the functions of a Magistrate under Act IV of 1912] upon the petition of C. D. of [1] in the matter of A. B., [1] a lunatic, accompanied by the medical certificates of G. H., a medical officer, and of J. K., a medical practitioner [or medical officer], under the said Act, hereto annexed, hereby authorise you to receive the said A. B. into your asylum. And I declare that I have [or have not] personally seen the said A. B. before making this order..

(Sd.) E. F.

(Designation as above.)

To[2]

FORM 3.

Medical Certificate.

(See sections 18, 19.)

In the matter of A. B. of [3] in the town of [or the sub-division of in the district of] an alleged lunatic.

I, the undersigned C. D., do hereby certify as follows :—

1. I am a gazetted medical officer [or a medical practitioner declared by Government a holder of [4] [or declared by [Provincial Government] to be a medical practitioner under Act IV of 1912] and I am in the actual practice of the medical profession.

[1] Address and description.

[2] To be addressed to the officer or person in charge of the asylum.

[3] Insert residence of patient.

[4] Insert qualification to practise medicine and surgery registrable in the United Kingdom.

¹ Subs. by the A. O. for "L. G."

(Part III.—*Judicial Inquisition as to Lunacy. Chapter V.—Proceedings in Lunacy outside Presidency-towns.*)

76. (1) Every person appointed by the District Court or by the Collector to be manager of the estate of a lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the immoveable property belonging to the lunatic and of all such money, or other moveable property, as he may receive on account of the estate, together with a statement of all debts due by or to the same.

(2) Every such manager shall also furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

77. If any relative of the lunatic, or the Collector by petition to the Court, impugns the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager and inquire summarily into the matter and make such order thereon as it thinks fit; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Collector if the manager was appointed by the Collector.

78. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into the public treasury on account of the estate and shall be invested from time to time in any of the securities specified in section 20 of the Indian Trusts Act, 1882, unless the Court or the Collector, if of as the case may be, for reasons to be recorded in writing, directs that such sums be in the interest of the lunatic otherwise invested or applied.

79. Any relative of a lunatic may with the leave of the District Court sue for an account from any manager appointed under this Chapter, or from any such person after his removal from office or trust, or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

80. (1) The District Court, for any sufficient cause, may remove any manager appointed by it not being the Curator, and may appoint such Curator or any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him.

(2) The Court may also for any sufficient cause, remove any guardian of the person of the lunatic appointed by it, and may appoint any other fit person in his place.

(3) The Collector, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him, and may appoint any other fit person in place of such manager or guardian; and the District Court, on the application of the Collector, may

(Schedule I.—Forms.)

1912 : Act VII.] *Bengal, Bihar and Orissa and Assam Laws.*

doing injury to himself or to others ; and in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King-Emperor of India the sum of rupees .

Dated this day of 19 .

(Sd.) E. F.

(Where a bond with sureties is to be executed add)—We do hereby declare ourselves sureties for the abovenamed E. F. that he will, on the aforesaid A. B. being delivered to his care and custody, have the said A. B. properly taken care of and prevented from doing injury to himself or to others ; and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees .

Dated this day of 19 .

(Signature.)

SCHEDULE II.—[ENACTMENTS REPEALED.] Rep. by the Second Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and Sch. II.

THE BENGAL, BIHAR AND ORISSA AND ASSAM LAWS ACT,
1912.

ACT No. VII OF 1912.¹

[26th March, 1912.]

An Act to make certain provisions regarding the application of the law in force in the Presidency of Fort William in Bengal, the Province of Bihar and Orissa and the Province of Assam.

WHEREAS a Governor and an Executive Council have been appointed for the Presidency of Fort William in Bengal ;

AND WHEREAS, by Proclamation² published under Notification No. 290, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction of His Majesty, has been pleased to declare and appoint that, on and from the first day of April, 1912, the territory mentioned in Schedule A shall be and continue subject to the said Presidency of Fort William in Bengal ;

¹ For Proceedings in Council, see Gazette of India, 1912, Part VI, pp. 594 to 596.

Notwithstanding anything contained in this Act, the territories specified in the Schedule to the Malkharoda and Gaontia Villages Laws Act, 1923 (22 of 1923), shall not be deemed to be included within the Province of Bihar and Orissa, see s. 2 of the latter Act.

² See the Gazette of India Extraordinary of the 22nd March, 1912.

(Schedule I.—Forms.)

6. A statement of particulars relating to the said A. B. accompanies this petition.

7. [*If that is the fact.*] An application for an inquiry into the mental capacity of the said A. B. was made to the _____ on the _____ and a certified copy of the order made on the said petition is annexed hereto.

[Or if that is the fact.]

No application for an inquiry into the mental capacity of the said A. B. has been made previous to this application.

The petitioner therefore prays that a reception order may be made in accordance with the foregoing statement.

(Sd.) C. D.

The statements contained or referred to in paragraphs _____ are true to my knowledge; the other statements are true to my information and belief.

(Sd.) C. D.

Dated

Statement of particulars.

[*If any of the particulars in this statement is not known, the fact to be so stated.*]

The following is a statement of particulars relating to the said A. B.

Name of patient at length.

Sex and age.

Married, single or widowed.

Previous occupation.

Caste and religious belief, as far as known.

Residence at or immediately previous to the date hereof.

Names of any near relatives to the patient who are alive.

Whether this is first attack of lunacy.

Age (if known) on first attack.

When and where previously under care and treatment as a lunatic.

Duration of existing attack.

Supposed cause.

Whether the patient is subject to epilepsy.

Whether suicidal.

Whether the patient is known to be suffering from phthisis or any form of tubercular disease.

Whether dangerous to others, and in what way.

Whether any near relative (stating the relationship) has been afflicted with insanity.

SCHEDULE D—*contd.*

Part I.—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal)—concl'd.

1	2
References.	Constructions.
3. The Board of Revenue for Eastern Bengal and Assam.	The Board of Revenue for Bengal.
1* * * * *	
6. All officers and official bodies not mentioned in the foregoing clauses 2 to 5 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Part I of Schedule A.	(a) The respective officers and official bodies who immediately before the commencement of this Act exercised similar functions in the Province of Bengal; or (b) such other officers or official bodies, respectively, as the "[Provincial Government] of " Bengal may, by notification in the "[Official Gazette], direct.
7. The local official Gazette (English or Vernacular, as the case may be) of the Government of Eastern Bengal and Assam.	The "[Official Gazette] (English or Vernacular, as the case may be) of the Government of Bengal.

Part II.—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa).

1	2
References.	Constructions.
8. The "[Local or Provincial Government] of Bengal.	The "[Provincial Government] of Bihar and Orissa.
9. The "[Local or Provincial Government] of the Central Provinces.	
10. The Board of Revenue for Bengal	The Board of Revenue for Bihar and Orissa.
1* * * * *	
13. The Court of Wards of the Central Provinces.	
14. The Superintendent of Government Wards in the Central Provinces.	

¹ Items 4, 5, 11 and 12 relating to the Chief Controlling Revenue-authority and Chief Revenue-authority, rep. by the A. O. See now definition in the General Clauses Act, 1897 (10 of 1897), s. 3 (9a).

² Subs. by the A. O. for "G. in C."

³ The words "Fort William in" rep. by the A. O.

⁴ Subs. by the A. O. for "local official Gazette."

⁵ Subs. by the A. O. for "L. G."

SCHEDULE D—concl'd.

Part III.—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam)—concl'd.

1	2
References.	Constructions.
25. The Chief Commissionership of Assam	The territory mentioned in Schedule C.
26. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Government of Eastern Bengal and Assam.	The ¹ [Official Gazette] (English or Vernacular, as the case may be) of the Chief Commissionership of Assam.

SCHEDULE E.—Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

THE WILD BIRDS AND ANIMALS PROTECTION ACT, 1912.

ACT No. VIII OF 1912.²

[18th September, 1912.]

An Act to make better provision for the protection and preservation of certain wild birds and animals.

WHEREAS it is expedient to make better provision for the protection and preservation of certain wild birds and animals ; It is hereby enacted as follows :—

1. (1) This Act may be called the Wild Birds and Animals Protection Act, 1912 ; and

Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

2. (1) This Act applies, in the first instance, to the birds and animals specified in the Schedule, when in their wild state.

Application of Act.

(2) The ³[Provincial Government] may, by notification⁴ in the ¹[Official Gazette], apply the provisions of this Act to any kind of wild bird or animal,

¹ Subs. by the A. O. for " local official Gazette".

² For Statement of Objects and Reasons, see Gazette of India, 1912, Pt. V, p. 2 ; for Report of Select Committee, see *ibid.*, 1912, Pt. V, p. 173 ; and for Proceedings in Council, see *ibid.*, 1912, Pt. VI, pp. 57 and 691.

The Act has been amended in its application to the U. P. by the Wild Birds and Animals Protection (U. P. Amendment) Act, 1934 (U. P. 13 of 1934), and in its application to the C. P. by the Wild Birds and Animals Protection (C. P. Amendment) Act, 1935 (C. P. 27 of 1935).

³ Subs. by the A. O. for " L. G."

⁴ For such a notification in Coorg, see Coorg District Gazette, 1913, Pt. I, p. 185 ; in the U. P., see U. P. Gazette, 1914, Pt. I, p. 169 ; and in Madras, see Mad. R. and O., 1923, Vol. I, p. 439.

(Schedule I.—Forms.)

Act IV of 1912] and is a lunatic who is believed to be dangerous [or deemed to be a lunatic who is not under proper care and control or is cruelly treated or neglected by the person having the charge of him] and whereas I, E. F., son of _____, inhabitant of _____, have applied to the Magistrate [or Commissioner of Police], that the said A. B. may be delivered to my care :

I, E. F., abovenamed hereby bind myself that on the said A. B. being made over to my care, I will have the said A. B. properly taken care of and prevented from doing injury to himself or to others : and in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King-Emperor of India, the sum of rupees _____.

Dated this _____ day of _____ 19 ____.

(Sd.) E. F.

(Where a bond with sureties is to be executed add)—We do hereby declare ourselves sureties for the abovenamed E. F. that he will, on the aforesaid A. B. being made over to his care, have the said A. B. properly taken care of and prevented from doing injury to himself or to others ; and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees _____.

Dated this _____ day of _____ 19 ____.

(Signature.)

FORM 8.

Bond on the discharge of a lunatic from an asylum on the undertaking of relative or friend to take due care.

(See section 33.)

Whereas A. B., son of _____, inhabitant of _____, is a lunatic who is now detained in the asylum at _____ under an order made by C. D., a Presidency Magistrate for the town of _____ [or Commissioner of Police for _____] [or the ^{District} Sub-Divisional Magistrate of _____, or a Magistrate of the first class specially empowered under Act IV of 1912] under section 14 [or section 15] of Act IV of 1912, and whereas I, E. F., son of _____, inhabitant of _____, have applied to the said Magistrate [or Commissioner of Police] that the said A. B. may be delivered to my care and custody :

I hereby bind myself that on the said A. B. being made over to my care and custody, I will have him properly taken care of and prevented from

7. The ¹[Provincial Government] may, by notification² in the ³[Official Gazette], extend with such restrictions and modifications as ⁴[it] thinks fit to ⁵[the Province of Delhi] or any part thereof, any enactment which is in force in any part of British India at the date of such notification.

Power to extend enactments in force in other parts of British India with modifications and restrictions.

SCHEDULE A.

(See section 3.)

THE PROVINCE OF DELHI.⁶

That portion of the District of Delhi comprising the Tahsil of Delhi and the police station of Mahrauli.

SCHEDULE B.

(See section 3.)

1	2
Reference.	Construction.
7* * *	
2. The ¹ [Provincial Government] of the Punjab.	
7* * *	
5. The Chief Customs Authority . . .	The ¹⁰ [Provincial Government] of Delhi.
6. The Financial Commissioner . . .	
7. The Commissioner of Revenue . . .	
8. The Commissioner of the Division . . .	
9. The Commissioner . . .	
10. The Chief Secretary to Government . . .	
11. A Secretary to Government or to the ⁹ [Provincial Government.]	

¹ Subs. by the A. O. for "G. G. in C."

² For such notifications see Gen. R. and O., Vol. IV, pp. 370-387.

³ Subs. by the A. O. for "Gazette of India".

⁴ Subs. by the A. O. for "he".

⁵ Subs. by the Delhi Laws Act, 1915 (7 of 1915), s. 7, for "the territory mentioned in Schedule A".

⁶ 65 villages were subsequently included in the Province of Delhi by proclamation published in Notification No. 984-C., dated 22nd February 1915, see Gazette of India, 1915, Pt. I, p. 336.

⁷ Items 1, 3 and 4 were rep. by the A. O.

⁸ Subs. by the A. O. for "Lieutenant-Governor".

⁹ Subs. by the A. O. for "L. G."

¹⁰ Subs. by the A. O. for "Chief Commissioner".

the Presidency Division, comprising the town of Calcutta and the districts of Jessore, Khulna, Murshidabad, Nadia and the 24-Parganas ; and the district of Darjeeling.

SCHEDULE B.

THE PROVINCE OF BIHAR AND ORISSA.

The districts of Bhagalpur, Monghyr, Purnea and the Sonthal Parganas, in the Bhagalpur Division ;

the Patna Division, comprising the districts of Gaya, Patna and Shahabad ;

the Tirhut Division, comprising the districts of Champaran, Darbhanga, Muzaffarpur and Saran ;

the Chota Nagpur Division, comprising the districts of Hazaribagh, Manbhum, Palamau, Ranchi and Singbhum ; and

the Orissa Division, comprising the districts of Angul, Balasore, Cuttack, Puri and Sambalpur.¹

SCHEDULE C.

THE PROVINCE OF ASSAM.

The Assam Valley Districts Division, comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sibsagar ; and

the Surma Valley and Hill Districts Division, comprising the districts of Cachar, Khasi and Jaintia Hills, Lushai Hills, Naga Hills and Sylhet.

SCHEDULE D.

(See section 3.)

Part I.—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal).

1	2
References.	Constructions.
1. The ² [Local or Provincial Government] of Bengal. 2. The ² [Local or Provincial Government] of Eastern Bengal and Assam.	} The ³ [Provincial Government] of ⁴ * Bengal.

¹ As regards the district of Sambalpur, see the Malkharoda and Gaontia Villages Laws Act, 1923 (22 of 1923).

² Subs. by the A. O. for "L. G."

³ Subs. by the A. O. for "G. in C."

⁴ The words "Fort William in" rep. by the A. O.

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF OFFICIAL TRUSTEE.
SECTIONS.

7. General powers and duties of Official Trustee.
8. Official Trustee may, with consent, be appointed trustee of settlement by grantor.
9. Appointment of Official Trustee as trustee by will.
10. Power of High Court to appoint Official Trustee to be trustee of property.
11. Power of private trustees to appoint Official Trustee to be trustee of property.
12. Executor or administrator may pay to Official Trustee legacy, share, etc., of infant or lunatic.
13. Official Trustee not to be required to give bond or security.
14. Entry of Official Trustee not to constitute notice of a trust.
15. Liability of Government.
16. Notice of suit not required in certain cases.

PART IV.

FEES.

17. Fees.
18. Disposal of fees.

PART V.

AUDIT.

19. Auditors to be appointed to examine Official Trustee's accounts, etc., and to report to Government.
20. Auditor's power to summon witnesses and to call for documents.
21. Costs of audit, etc., how paid.
22. Right of beneficiary to inspection and copies of accounts.

PART VI.

MISCELLANEOUS.

23. Transfer to Government of accumulations in the hands of Official Trustee.
24. Mode of proceeding by claimant to recover money so transferred.

SCHEDULE D—*contd.*

Part II.—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa)—concl'd.

1	2
References.	Constructions.
15. The Judicial Commissioner of the Central Provinces.	The High Court of Judicature ¹ [in Calcutta].
16. All officers and official bodies not mentioned in the foregoing clauses 8 to 15 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Bengal generally, inclusive of the territory mentioned in Schedule B.	Such officers or official bodies, respectively, as the ² [Provincial Government] may, by notification in the ³ [Official Gazette], direct.
17. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Chief Commissionership of the Central Provinces.	The ³ [Official Gazette] (English or Vernacular, as the case may be) of the Government of Bihar and Orissa.

Part III.—Construction of enactments, etc., in force in the territory mentioned in Schedule C (the Province of Assam).

1	2
References.	Constructions.
18. The ² [Local or Provincial Government] of Bengal.	The ⁵ [Provincial Government] of Assam.
19. The ² [Local or Provincial Government] of Eastern Bengal and Assam.	
20. The Board of Revenue for Bengal . . .	
21. The Board of Revenue for Eastern Bengal and Assam.	
4* * * * *	
24. All officers and official bodies not mentioned in the foregoing clauses 18 to 23 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Schedule C.	Such officers or official bodies, respectively, as the ⁵ [Provincial Government] of Assam may, by notification in the ³ [Official Gazette], direct.

¹ Subs. by the A. O. for "at Fort William in Bengal".

² Subs. by the A. O. for "L. G."

³ Subs. by the A. O. for "local official Gazette".

⁴ Items 22 and 23 relating to the Chief Controlling Revenue-authority and Chief Revenue-authority rep. by the A. O.: see now definition in the General Clauses Act, 1897 (10 of 1897), s. 3 (9a).

⁵ Subs. by the A. O. for "Chief Commissioner".

(Part I.—Preliminary. Part II.—The Office of Official Trustee.)

¹[(2) "High Court" means—

- (a) in relation to Bengal, Assam, and the Andaman and Nicobar Islands, the High Court at Calcutta ;
- (b) in relation to Madras and Coorg, the High Court at Madras ;
- (c) in relation to Bombay and British Baluchistan, the High Court at Bombay ;
- (d) in relation to the United Provinces and Ajmer-Merwara, the High Court at Allahabad ;
- (e) in relation to the Punjab and Delhi, the High Court at Lahore ;
- (f) in relation to the Provinces of Bihar and Orissa, the High Court at Patna ;
- (g) in relation to the Central Provinces and Berar, the High Court at Nagpur ;
- (h) in relation to Sind, the Judicial Commissioner's Court ;
- (i) in relation to the North-West Frontier Province, the Judicial Commissioner's Court ;
- (j) in relation to British subjects in any Indian State, that one of the aforesaid courts which the Central Government may from time to time notify in this behalf:]

2* * * * *

(4) "Prescribed" means prescribed by rules under this Act :

2* * * * *

³[(8) "Division" means the Province or State or group of States for which an Official Trustee has been appointed under this Act.]

3. For the purposes of this Act the High Court ⁴* * * shall have ⁵Extent of jurisdiction throughout the ⁵[Division].
jurisdiction throughout the ⁵[Division].
Extent of jurisdiction of High Courts.

PART II.

THE OFFICE OF OFFICIAL TRUSTEE.

4. ⁶[(1) The Provincial Government for each Province, and the Central Government for British subjects in any Indian State or group of Indian States, shall appoint an Official Trustee :
Official Trustees.

Provided that nothing herein contained shall be deemed to bar the appointment of the same person as Official Trustee for two or more Divisions.]

¹ Subs. by the A. O. for original definition.

² Cls. (3), (5), (6) and (7), defining "Official Gazette," "Presidency of Bengal," "Presidency of Bombay," "Presidency of Madras," "Presidency" and "Revenues of the Government" were rep. by the A. O.

³ Ins. by the A. O.

⁴ The words "at a Presidency-town" rep. by the A. O.

⁵ Subs. by the A. O. for "Presidency".

⁶ Subs. by the A. O. for the original sub-section.

other than those specified in the Schedule, which, in its opinion, it is desirable to protect or preserve.

3. The ¹[Provincial Government] may, by notification² in the ³[Official Gazette], declare the whole year or any part thereof to be a close time throughout the whole or any part of its territories for any kind of wild bird or animal to which this Act applies, or for female or immature wild birds or animals of such kind; and, subject to the provisions hereinafter contained, during such close time, and within the areas specified in such notification, it shall be unlawful---

- (a) to capture any such bird or animal, or to kill any such bird or animal which has not been captured before the commencement of such close time;
- (b) to sell or buy, or offer to sell or buy, or to possess, any such bird or animal which has not been captured or killed before the commencement of such close time, or the flesh thereof;
- (c) if any plumage has been taken from any such bird captured or killed during such close time, to sell or buy, or to offer to sell or buy, or to possess, such plumage.

4. (1) Whoever does or attempts to do, any act in contravention of section 3, shall be punishable with fine which may extend to fifty rupees.

(2) Whoever, having already been convicted of an offence under this section, is again convicted thereunder shall, on every subsequent conviction, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

5. (1) When any person is convicted of an offence punishable under this Act, the convicting Magistrate may direct that any bird or animal in respect of which such offence has been committed, or the flesh or any other part of such bird or animal, shall be confiscated.

(2) Such confiscation may be in addition to the other punishment provided by section 4 for such offence.

6. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence against this Act.

7. Where the ¹[Provincial Government] is of opinion that, in the interests of scientific research, such a course is desirable, it may grant to any person a license, subject to such restrictions and conditions as it may impose, entitling the holder thereof to do any act which is by section 3 declared to be unlawful.

8. Nothing in this Act shall be deemed to apply to the capture or killing of a wild animal by any person in defence of himself or any other person, or to the capture or killing of any wild bird or animal in *bonâ fide* defence of property.

9. [Repeal.] *Rep. by the Second Repealing and Amending Act, 1914 (XVII of 1914), s. 3 and Sch. II.*

¹ Subs. by the A. O. for "L. G."

² For such a notification in Madras, see Mad. R. and O., 1923, Vol. I, p. 439.

³ Subs. by the A. O. for "local official Gazette".

(Part III.—Rights, Powers, Duties and Liabilities of Official Trustee.)

(5) The Official Trustee shall not, save as provided by any rules made under this Act, accept any trust for a religious purpose or any trust which involves the management or carrying on of any business.

(6) The Official Trustee shall not administer the estate of a deceased person, unless he is expressly appointed sole executor of, and sole trustee under, the will of such person.

(7) The Official Trustee shall always be solè trustee, and it shall not be lawful to appoint the Official Trustee to be trustee along with any other person.

8. (1) Any person intending to create a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act may by the instrument creating the trust and with the consent of the Official Trustee, appoint him by that name or any other sufficient description to be the trustee of the property subject to such trust :

Official Trustee may with consent be appointed trustee of settlement by grantor.

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

(2) Upon such appointment the property subject to the trust shall vest in such Official Trustee, and shall be held by him upon the trusts declared in such instrument.

9. When the Official Trustee has by that name or any other sufficient description been appointed trustee under any will, the executor of the will of [the testator] or the administrator of his estate shall, after obtaining probate or letters of administration, notify in the prescribed manner the contents of such will to such Official Trustee ; and, if such Official Trustee consents to accept the trust, then upon the execution by such executor or administrator of an instrument in writing transferring the property subject to the trust to the Official Trustee, such property shall vest in such Official Trustee, and shall be held by him upon the trusts expressed in the said will :

Appointment of Official Trustee as trustee by will.

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

10. (1) If any property is subject to a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act, and there is no trustee within the local limits of the ordinary or extraordinary original civil jurisdiction of the High Court willing or capable to act in the trust, the High Court may on application make an order for the appointment of the Official Trustee by that name with his consent to be the trustee of such property.

Power of High Court to appoint Official Trustee to be trustee of property.

(2) Upon such order such property shall vest in the Official Trustee and shall be held by him upon the same trusts as the same was held previously to such order, and the previous trustee or trustees (if any) shall be exempt

¹ Subs. by the Repealing and Amending Act, 1919 (18 of 1919), s. 2 and Sch. I, for "such testator".

(Part III.—Rights, Powers, Duties and Liabilities of Official Trustee.
Part IV.—Fees.)

15. (1) The revenues of the Government ¹* * shall be liable to make ^{Liability of Government.} good all sums required to discharge any liability which the Official Trustee, if he were a private trustee, would be personally liable to discharge, except when the liability is one to which neither the Official Trustee nor any of his officers has in any way contributed or which neither he nor any of his officers could by the exercise of reasonable diligence have averted, and in either of those cases the Official Trustee shall not, nor shall the revenues ²[of the Government]³* * * be subject to any liability.

(2) Nothing in sub-section (1) shall be deemed to render the revenues ²[of the Government]³* * * or any Official Trustee appointed under this Act liable for anything done by or under the authority of any Official Trustee before the commencement of this Act.

16. Nothing in section 80 of the Code of Civil Procedure, 1908, shall apply to any suit against the Official Trustee in which no relief is claimed against him personally. ^{Notice of suit not required in certain cases.}

PART IV.

FEEs.

17. (1) There shall be charged in respect of the duties of the Official ^{Fees.} Trustee such fees, whether by way of percentage or otherwise, as the Government may prescribe :

Provided that in the case of a trust accepted by the Official Trustee before the commencement of this Act the fees prescribed under this section shall not exceed the fees leviable in respect of such trust under the Official Trustees Act, 1864,⁴ as subsequently amended.

(2) The fees under this section may be at different rates for different properties or classes of properties or for different duties, and shall, so far as may be, be arranged so as to produce an amount sufficient to discharge the salaries and all other expenses incidental to the working of this Act (including such sum as Government may determine to be required to insure the revenues of the Government ⁵* * against loss under this Act).

18. (1) All expenses which might be retained or paid out of the trust fund, ^{Disposal of fees.} if the Official Trustee were a private trustee, shall be so retained or paid, and any fees leviable under this Act shall be retained or paid in like manner as and in addition to such expenses.

¹ The words "of India" rep. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 3.

² The words "of the Govt. or" were ins. by s. 3, *ibid.*

³ The words "or of the G. of I." rep. by the A. O.

⁴ Rep. by the Official Trustees Act, 1913 (2 of 1913).

⁵ The words "of India" rep. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 4.

Dell's Law,
Official Trustees,
SCHEDULE B. *contd.*

[1912 : Act XIII.

[1913 : Act II.

Reference.	Construction.
<p>1. The Official Trustees of the [Provincial Government] may, by notification in the [Official Gazette] direct, subject to the sanction of the [Provincial Government], to be the [Official Trustees] of the [Provincial Government] the [Provincial Government] may, by notification in the [Official Gazette] direct, subject to the sanction of the [Provincial Government], to be the [Official Trustees] of the [Provincial Government].</p>	<p>1. The Official Trustees of the [Provincial Government] may, by notification in the [Official Gazette] direct, subject to the sanction of the [Provincial Government], to be the [Official Trustees] of the [Provincial Government].</p>
* * *	

THE OFFICIAL TRUSTEES ACT, 1913.

CONTENTS.

PART I.

PRELIMINARY.

ARTICLE.

1. Short title, extent and commencement.
2. Interpretation clause.
3. Extent of jurisdiction of High Courts.

PART II.

THE OFFICE OF OFFICIAL TRUSTEE.

1. Official Trustees.
5. Appointment and powers of Deputy Official Trustee.
6. Official Trustee to be corporation sole, to have perpetual succession and official seal, and to sue and be sued in his corporate name.

¹ Subs. by the A. O. for "L. G."

² For such a notification, see Gazette of India, 1912, Pt. I, p. 1109.

³ Subs. by the A. O. for "Gazette of India".

⁴ Item 13 was rep. by the A. O.

(Part V.—Audit. Part VI.—Miscellaneous.)

of 1860. an offence within the meaning of, and punishable under, section 188 of the Indian Penal Code, and the auditor shall report every case of such refusal or neglect to Government.

21. The cost of and incidental to every such audit and examination shall be determined in accordance with rules made by the Government and shall be defrayed in the prescribed manner. Costs of audit, etc., how paid.

1882. 22. Every beneficiary under a trust which is being administered by the Official Trustee shall, subject to such conditions and restrictions as may be prescribed, be entitled, at all reasonable times, to inspect the accounts of such trust, and the report and certificate of the auditor and, on payment of the prescribed fee, to be furnished with copies thereof or extracts therefrom, and nothing in the Indian Trusts Act, 1882, shall affect the provisions of this section. Right of beneficiary to inspection and copies of accounts.

PART VI.

MISCELLANEOUS.

23. When any moneys payable to a beneficiary under a trust have been in the hands of any Official Trustee for a period of twelve years or upwards whether before or after the commencement of this Act in consequence of the Official Trustee having been unable to trace the person entitled to receive the same, such moneys shall be transferred in the prescribed manner to the account and credit of the Government ¹* * : Transfer to Government of accumulations in the hands of Official Trustee.

Provided that no such moneys shall be so transferred if any suit or proceeding is pending in respect thereof in any Court.

24. (1) If any claim is made to any moneys so transferred and such claim is established to the satisfaction of the prescribed authority, the Government ¹* * shall pay to the claimant the amount in respect of which the claim is established. Mode of proceeding by claimant to recover money so transferred

(2) If such claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such moneys, apply by petition to the High Court against the ²[Government] and, after taking such evidence as it thinks fit, such Court shall make such order on the petition in regard to the payment of such moneys as it thinks fit, and such order shall be binding on all parties to the proceedings :

³[Provided that nothing in this section affects any option afforded to a claimant by section 179 of the Government of India Act, 1935.]

¹ The words " of India " rep. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 4.

² Subs. by the A. O. for " Secretary of State for India in Council ".

³ Ins. by the A. O.

(Part I.—Preliminary.)

SECTIONS.

25. Power of High Court to make orders in respect of property vested in Official Trustee.
26. Who may apply for order under Act.
27. Order of Court to have effect of a decree.
28. General powers of administration.
29. Transfer of trust property by Official Trustee to original trustee or any other trustee.
30. Rules.
31. [*Repealed.*]
32. Saving of provisions of Indian Registration Act, 1908.
- 32A. Saving.
33. [*Repealed.*]

THE SCHEDULE—[*Repealed.*]ACT NO. II OF 1913.¹

[27th February, 1913.]

An Act to consolidate and amend the Law constituting the office of Official Trustee.

WHEREAS it is expedient to consolidate and amend the law constituting the office of the Official Trustee ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Official Trustees Act, 1913.
- (2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also to all ²[British subjects in Indian States.]
- (3) It shall come into force on such date³ as the ⁴[Central Government], by notification in the ⁵[Official Gazette], may direct.
2. In this Act, unless there is anything repugnant in the subject or context,—

⁶[(1) “ Government ” or “ the Government ” means in relation to any Province, the Provincial Government, and, in relation to British subjects in Indian States, the Central Government:]

¹ For Statement of Objects and Reasons, see Gazette of India, 1912, Pt. V, p. 202 ; for Report of Select Committee, see *ibid.*, 1913, Pt. V, p. 19 ; and for Proceedings in Council, see *ibid.*, 1912, Pt. VI, p. 699 and *ibid.*, 1913, Pt. VI, pp. 15 and 28.

² Subs. by the A. O. for “ British and Indian Subjects of His Majesty in the territories of Native States in India ”.

³ The 1st April, 1914, see Gen. R. & O., Vol. IV, p. 388.

⁴ Subs. by the A. O. for “ G. G. in C.”

⁵ Subs. by the A. O. for “ Gazette of India ”.

⁶ Subs. by the A. O. for original definition.

(Part VI.—Miscellaneous.)

- (b) the safe custody, and deposit of the funds and securities which come into the hands of the Official Trustee ;
- (c) the remittance of sums of money in the hands of the Official Trustee in cases in which such remittances are required ;
- (d) the statements, schedules and other documents to be submitted by the Official Trustee to Government or to any other authority and the publication of such statements, schedules or other documents ;
- (e) the realization of the cost of preparing any such statements, schedules or other documents ;

1* * * * * *

- (f) subject to the provisions of this Act, the fees to be paid thereunder and the collection and accounting for any fees so fixed ;
- (g) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed ;
- (h) the manner in which summonses issued under the provisions of section 20 are to be served and the payment of the expenses of any persons summoned or examined under the provisions of this Act and of any expenditure incidental to such examination ;
- (i) the acceptance by the Official Trustee of trusts for religious purposes and trusts which involve the management or carrying on of business ; and
- (j) any matter in this Act directed to be prescribed.

(3) Rules made under the provisions of this section shall be published in the Official Gazette, and shall thereupon have effect as if enacted in this Act.

31. [Division of Presidency into Provinces.] Rep. by the A. O.

32. Nothing contained in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908.

Saving of provisions of Indian Registration Act, 1908.

²[32A. The amendments³ of this Act which come into force on the commencement of Part III of the Government of India Act, 1935, shall not affect any legal proceedings pending in any court on that date or be construed as automatically transferring any property from any Official Trustee to any other Official Trustee : but nothing in this section shall be construed as

¹ Cl. (ee), which was ins. by the Repealing and Amending Act, 1914 (10 of 1914), was rep. by the Destruction of Records Act, 1917 (5 of 1917), s. 6 and Sch.

² S. 32A was ins. by the A. O.

³ I.e., the amendments made by the A. O. which came into force on the 1st April, 1937, simultaneously with Part III of the G. of I. Act, 1935.

(Part II.—The Office of Official Trustee. Part III.—Rights, Powers, Duties and Liabilities of Official Trustee.)

(2) No person shall be appointed to the office of Official Trustee ^{1*} who is not—

(a) a Barrister ; or

(b) an Advocate, Attorney or Vakil enrolled by a High Court ; or

(c) a person holding the office of Deputy Administrator General at the commencement of this Act ; ²[or—

(d) in the case of a Province other than Bengal, Madras or Bombay, a person already in the service of the Crown.]

3* * * * * *

5. The Government may appoint a Deputy or Deputies to assist the Official Trustee ; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Official Trustee, be competent to discharge any of the duties and exercise any of the powers of the Official Trustee, and, when discharging such duties or exercising such powers, shall have the same privileges and be subject to the same liabilities as the Official Trustee.

6. The Official Trustee shall be a corporation sole by the name of the Official Trustee of the ⁴[Division] for which he is appointed and, as such Official Trustee, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF OFFICIAL TRUSTEE.

7. (1) Subject to, and in accordance with, the provisions of this Act and the rules made thereunder, the Official Trustee may, if he thinks fit,—

(a) act as an ordinary trustee ;

(b) be appointed trustee by a Court of competent jurisdiction.

(2) Save as hereinafter expressly provided, the Official Trustee shall have the same powers, duties and liabilities and be entitled to the same rights and privileges and be subject to the same control and orders of the Court as any other trustee acting in the same capacity.

(3) The Official Trustee may decline, either absolutely or except on such conditions as he may impose, to accept any trust.

(4) The Official Trustee shall not accept any trust under any composition or scheme of arrangement for the benefit of creditors, nor of any estate known or believed by him to be insolvent.

¹ The words " of any of the said Presidencies " rep. by the A. O.

² Ins. by the A. O.

³ Sub-section (3) rep. by the A. O.

⁴ Subs. by the A. O. for " Presidency ".

SECTIONS.

8. Administrator General entitled to letters of administration in preference to creditor, non-universal legatee or friend.
9. When Administrator General is to administer estates of persons other than exempted persons.
10. Power to direct Administrator General to apply for administration.
11. Power to direct Administrator General to collect and hold assets until right of succession or administration is determined.
12. Grant of probate or letters of administration to person appearing in the course of proceedings taken by Administrator General under sections 9, 10 and 11.
13. Grant of administration to Administrator General in certain cases.
14. Administrator General not precluded from applying for letters within one month after death.

(b) Estates of Persons subject to the Army Act, or the Air Force Act.

15. Act not to affect Regimental Debts Act, 1893.
16. Letters of administration not necessary in respect of small estates administered by Administrator General in accordance with the Regimental Debts Act, 1893.
17. Power to grant Administrator General letters limited to purpose of dealing with assets in accordance with the Regimental Debts Act, 1893.

(c) Revocation of Grants.

18. Recall of Administrator General's administration, and grant of probate, etc., to executor or next-of-kin.
19. Cost of obtaining administration, etc., may on revocation, be ordered to be paid to Administrator General out of assets.
20. After revocation, letters granted to Administrator General to be deemed as to him to have been voidable only.
21. Payments made by Administrator General prior to revocation.

(d) General.

22. Administrator General's petition for grant of letters of administration.
23. Name in which probate or letters to be granted.
24. Effect of probate or letters granted to Administrator General.
25. Transfer by private executor or administrator of interest under probate or letters.
26. Distribution of assets.
27. Appointment of Official Trustee as trustee of assets after completion of administration.
28. Power for High Court to give directions regarding administration of estate.

(Part IV.—Fees. Part V.—Audit.)

(2) The Official Trustee shall transfer and pay to such authority and in such manner and at such times as the Government may prescribe, all fees received by him under this Act, and the same shall be carried to the account and credit of the Government ^{1*} *

PART V.

AUDIT.

19. (1) The accounts of the Official Trustee shall be audited at least once annually and at any other time if the Government so direct by the prescribed person and in the prescribed manner.

(2) The auditor shall examine such accounts, and shall forward to Government a statement thereof in the prescribed form, together with a report thereon and a certificate signed by him showing—

- (a) whether the accounts contain a full and true account of everything which ought to be contained therein, and
- (b) whether the books, which by any rules made under this Act are directed to be kept by the Official Trustee, have been duly and regularly kept, and
- (c) whether the trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act or any rules made thereunder ;

or (as the case may be) that such accounts are deficient, or that the Official Trustee has failed to comply with this Act or the rules made thereunder, in such respects as may be specified in such certificate.

20. (1) Every auditor shall have the powers of a Civil Court under the Code of Civil Procedure, 1908,

- (a) to summon any person whose presence he may think necessary to attend him from time to time, and
- (b) to examine any person, on oath to be by him administered, and
- (c) to issue a commission for the examination on interrogatories or otherwise of any person, and
- (d) to summon any person to produce any document or thing, the production of which appears to be necessary for the purposes of such audit or examination.

(2) Any person who, when summoned, refuses, or without reasonable cause neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined shall be deemed to have committed

* The words " of India " rep. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 4.

(Part I.—Preliminary. Part II.—The Office of Administrator General.)

- (d) in relation to the United Provinces and Ajmer-Merwara, the High Court at Allahabad ;
- (e) in relation to the Punjab and Delhi, the High Court at Lahore ;
- (f) in relation to the Provinces of Bihar and Orissa, the High Court at Patna ;
- (g) in relation to the Central Provinces and Berar, the High Court at Nagpur ;
- (h) in relation to Sind, the Judicial Commissioner's Court ;
- (i) in relation to the North-West Frontier Province, the Judicial Commissioner's Court ; and
- (j) in relation to British subjects in any Indian State, that one of the aforesaid courts which the Central Government may from time to time notify in this behalf :

(13) " Division " means the Province or State or group of States for which an Administrator General has been appointed under this Act.]

PART II.

THE OFFICE OF ADMINISTRATOR GENERAL.

3. ¹[(1) The Provincial Government for each Province, and the Central Government for British subjects in any Indian State or group of Indian States, shall appoint an Administrator General : Appointment of Administrators General.

Provided that nothing herein contained shall be deemed to bar the appointment of the same person as Administrator General for two or more Divisions.]

(2) No person shall be appointed to the office of Administrator General
2* * * * * who is not—

- (a) a Barrister ; or
- (b) an Advocate, Attorney or Vakil enrolled by a High Court ; or
- (c) a person holding the office of Deputy Administrator General at the commencement of this Act ; ³[or
- (d) in the case of a Province other than Bengal, Madras or Bombay, a person already in the service of the Crown.]

4* * * * *

4. The Government may appoint a Deputy or Deputies to assist the Administrator General ; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Administrator General, be competent to discharge any of the duties and to exercise Appointment and powers of Deputy Administrators General.

¹ Subs. by the A. O. for original sub-section (1).

² The words " of any of the said Presidencies " rep. by the A. O.

³ Ins. by the A. O.

⁴ Sub-section (3) rep. by the A. O.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

14. Nothing in this Act shall be deemed to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

Administrator General not precluded from applying for letters within one month after death.

(b) *Estates of Persons subject to the Army Act* ¹ [or the Air Force Act.]

15. Nothing in this Act shall be deemed to affect the provisions of the Regimental Debts Act, 1893.²

Act not to affect Regimental Debts Act, 1893.

16. It shall not be necessary for the Administrator General to take out letters of administration of the estate of any deceased person which is being administered by him in accordance with the provisions of the Regimental Debts Act, 1893², if the value of such estate does not on the date when such administration is committed to him exceed rupees one thousand, but he shall have the same power in regard to such estate as he would have had if letters of administration had been granted to him.

Letters of administration not necessary in respect of small estates administered by Administrator General in accordance with the Regimental Debts Act, 1893.

17. If the Administrator General applies, in accordance with the provisions of the Regimental Debts Act, 1893², for letters of administration of the estate of any person subject to the Army Act ¹ [or the Air Force Act], the Court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the Regimental Debts Act, 1893².

Power to grant Administrator General letters limited to purpose of dealing with assets in accordance with the Regimental Debts Act, 1893.

(c) *Revocation of Grants.*

18. If an executor or next-of-kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto establishes to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration granted in accordance with the provisions of this Act to the Administrator General may be revoked, and probate or letters of administration may be granted to such executor or next-of-kin as the case may be :

Recall of Administrator General's administration, and grant of probate, etc., to executor or next-of-kin.

Provided that no letters of administration granted to the Administrator General shall be revoked for the cause aforesaid, except in cases in which a

¹ Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

² Coll. Stats. Ind., Vol. II.

preventing a transfer of any such property in accordance with any of the other provisions of this Act.]

33. [Repeals.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE SCHEDULE.—[ENACTMENTS REPEALED.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE ADMINISTRATOR GENERAL'S ACT, 1913.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Interpretation clause.

PART II.

THE OFFICE OF ADMINISTRATOR GENERAL.

3. Appointment of Administrators General.
4. Appointment and powers of Deputy Administrators General.
5. Administrator General to be a corporation sole, to have perpetual succession and official seal, and to sue and be sued in his corporate name.

PART III.

RIGHTS, POWERS, DUTIES AND LIABILITIES OF THE ADMINISTRATOR GENERAL.

(a) Grants of letters of administration and probate.

6. As regards Administrator General, High Court to be deemed a Court of competent jurisdiction for the purpose of granting probate or letters of administration.
7. Administrator General entitled to letters of administration, unless granted to next-of-kin.

SECTIONS.

29. No security nor oath to be required from Administrator General.
Manner in which petitions to be verified by Administrator General and his Deputy.

Entry of Administrator General not to constitute notice of a trust.

30. Power to examine on oath.

(c) *Grant of Certificates.*

31. In what case Administrator General may grant certificate.
32. Grant of certificate to creditors and power to take charge of certain estates.
33. Administrator General not bound to grant certificate unless satisfied of claimant's title, etc.
34. Effect of certificate.
35. Revocation of certificate.
36. Surrender of revoked certificate.
37. Administrator General not bound to take out administration on account of assets for which he has granted certificate.
38. Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

(f) *Liability.*

39. Liability of Government.
40. Creditors' suits against Administrator General.
41. Notice of suit not required in certain cases.

PART IV.

FEES.

42. Fees.
43. Disposal of fees.

PART V.

AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS.

44. Audit of Administrator General's accounts.
45. Auditors to examine accounts and report to Government.
46. Power of auditors to summon and examine witnesses and to call for documents.
47. Costs of audit, etc.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

(2) No Administrator General or Deputy Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and, if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Manner in which petitions to be verified by Administrator General and his Deputy.

(3) The entry of the Administrator General by that name in the books of a Company shall not constitute notice of a trust, and a Company shall not be entitled to object to enter the name of the Administrator General on its register by reason only that the Administrator General is a corporation and in dealing with assets the fact that the person dealt with is the Administrator General shall not of itself constitute notice of a trust.

Entry of Administrator General not to constitute notice of a trust.

30. The Administrator General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine upon oath (which he is hereby authorised to administer) any person who is willing to be so examined by him regarding such question.

Power to examine on oath.

(e) Grant of Certificates.

31. Whenever any person has died leaving assets within any ¹[Division], and the Administrator General of such ¹[Division] is satisfied that such assets, excluding any sum of money deposited in a Government Savings Bank, or in any Provident Fund to which the provisions of the Provident Funds Act, 1897², apply, did not at the date of death exceed in the whole ³[two thousand] rupees—in value, he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the estate of the deceased, grant to any person, claiming otherwise than as a creditor to be interested in such assets, or in the administration thereof, a certificate under his hand entitling the claimant to receive the assets therein mentioned left by the deceased, within the ¹[Division] to a value not exceeding in the whole ³[two thousand] rupees :

In what case Administrator General may grant certificate.

Provided that no certificate shall be granted under this section—

- (i) where probate of the deceased's will or letters of administration of his estate has or have been granted ; or
- (ii) in respect of any sum of money deposited in a Government Savings Bank or in any Provident Fund to which the provisions of the Provident Funds Act, 1897, apply.

¹ Subs. by the A. O. for "Province".

² See now the Provident Funds Act, 1912.

³ Subs. by the Administrator General "two thousand" for "one thousand".

(Part I.—Preliminary.)

(2) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan, and applies also to all ¹[British subjects in Indian States.]

(3) It shall come into force on such date² as the ³[Central Government] may, by notification in the ⁴[Official Gazette], direct.

sta-
mac.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “assets” means all the property, moveable and immoveable, of a deceased person, which is chargeable with, and applicable to, the payment of his debts and legacies, or available for distribution among his heirs and next-of-kin :

(2) “exempted person” means an Indian Christian, a Hindu, Muhammadan, Parsi or Buddhist, or a person exempted under section 332 of the Indian Succession Act, 1865⁵, from the operation of that Act :

⁶[(3) “Government” or “the Government” means, in relation to any Province, the Provincial Government, and in relation to British subjects in Indian States, the Central Government:]

(4) “Indian Christian” means a Native of India who is or in good faith claims to be of unadmixed Asiatic descent, and who professes any form of the Christian religion :

(5) “letters of administration” includes any letters of administration, whether general or with a copy of the will annexed, or limited in time or otherwise :

(6) “next-of-kin” includes a widower or widow of a deceased person, or any other person who by law would be entitled to letters of administration in preference to a creditor or legatee of the deceased :

7* * * * * * *

(8) “prescribed” means prescribed by rules under this Act :

7* * * * * * *

⁸[(12) “High Court” means—

(a) in relation to Bengal, Assam and the Andaman and Nicobar Islands, the High Court at Calcutta ;

(b) in relation to Madras and Coorg, the High Court at Madras ;

(c) in relation to Bombay and British Baluchistan, the High Court at Bombay ;

¹ Subs. by the A. O. for “British and Indian subjects of His Majesty in the territories of Native States in India”.

² The 1st April, 1914, see Gen. R. and O., Vol. IV, p. 406.

³ Subs. by the A. O. “G. G. in C.”

⁴ Subs. by the A. O. for “Gazette of India”.

⁵ See now the Indian Succession Act, 1925 (39 of 1925), s. 3.

⁶ Subs. by the A. O. for the original clause.

⁷ Cls. (7), (9), (10) and (11), defining Official Gazette, the Presidencies of Bengal, Bombay and Madras, Presidency and Revenues of the Govt., respectively, were rep. by the A. O. Cl. (11) had been ins. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 5.

⁸ Cls. (12) and (13) were ins. by the A. O.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

- (ii) that the certificate was obtained by means of an untrue allegation of a fact essential in law to justify the grant though such allegation was made in ignorance or inadvertently.

36. (1) When a certificate is revoked in accordance with the provisions of section 35, the holder thereof shall, on the requisition of the Administrator General, deliver it up to such Administrator General, but shall not be entitled to the refund of any fee paid thereon. Surrender of revoked certificate.

(2) If such person wilfully and without reasonable cause omits to deliver up the certificate, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

37. The Administrator General shall not be bound to take out letters of administration of the estate of any deceased person on account of the assets in respect of which he grants any certificate, under section 31 or section 32, but he may do so if he revokes such certificate under section 35 or ascertains that the value of the estate exceeded ¹[two thousand] rupees. Administrator General not bound to take out administration on account of assets for which he has granted certificate.

38. Where a person not having his domicile in British India has died leaving assets in any ²[Division] and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in any such ²[Division] have been taken under section 31 or section 32, and there has been a grant of administration in the country of domicile with respect to the assets in that country, Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

the holder of the certificate granted under section 31 or section 32, or the Administrator General, as the case may be, after having given the prescribed notice for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he has notice of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

(f) Liability.

39. (1) The revenues of the Government^{3*} * shall be liable to make good all sums required to discharge any liability which the Administrator General, if he were a private administrator, would be personally liable to discharge, except when the liability is one to which neither the Administrator Liability of Government.

¹ Subs. by the Administrator General's (Amendment) Act, 1926 (32 of 1926), s. 2, for "one thousand".

² Subs. by the A. O. for "Presidency".

³ The words "of India" rep. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 6.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.)

11. (1) Whenever any person has died leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court is satisfied that there is no person immediately available, who is legally entitled to the succession to such assets, or that danger is to be apprehended of misappropriation, deterioration or waste of such assets, before it can be determined who may be legally entitled to the succession thereto, or whether the Administrator General is entitled to letters of administration of the estate of such deceased person,

the Court may, upon the application of the Administrator General or of any person interested in such assets, or in the due administration thereof, forthwith direct the Administrator General to collect and take possession of such assets, and to hold, deposit, realize, sell or invest the same according to the directions of the Court, and in default of any such directions according to the provisions of this Act so far as the same are applicable to such assets.

(2) Any order of the Court made under the provisions of this section shall entitle the Administrator General,

- (a) to maintain any suit or proceeding for the recovery of such assets, and
- (b) if he thinks fit, to apply for letters of administration of the estate of such deceased person, and
- (c) to retain out of the assets of the estate any fees chargeable under rules made under this Act, and to reimburse himself for all payments made by him in respect of such assets which a private administrator might lawfully have made.

12. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, any person appears and establishes his claim—

- (a) to probate of the will of the deceased ; or
- (b) to letters of administration as next-of-kin of the deceased, and gives such security as may be required of him by law,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General the costs of any proceedings taken by him, under those sections to be paid out of the estate as part of the testamentary or intestate expenses thereof.

13. If, in the course of proceedings to obtain letters of administration under the provisions of section 9, section 10, or section 11, no person appears and establishes his claim to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased, within such period as to the Court seems reasonable,

or if a person who has established his claim to a grant of letters of administration as next-of-kin of the deceased fails to give such security as may be required of him by law,

the Court may grant letters of administration to the Administrator General.

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.

will of the deceased is proved in the ¹[Division], unless the application for that purpose is made within six months after the grant to the Administrator General and the Court is satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

19. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any fees which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of the estate :

Provided that nothing in this section shall affect the provisions of clause (c) of sub-section (2) of section 11.

20. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void :

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator General or any person acting under his authority in pursuance of such letters unless, within the period of one month from the time of giving such notice, proceedings are commenced to prove the will, or to cause the letters to be revoked, and such proceedings are prosecuted without unreasonable delay.

21. If any letters of administration granted to the Administrator General in accordance with the provisions of this Act are revoked, upon the grant of probate of a will, or upon the grant of letters of administration with a copy of the will annexed, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration, prior to the revocation, which would have been valid under any letters of administration lawfully granted to him with a copy of such will annexed, shall be deemed valid notwithstanding such revocation.

(d) General.

22. Whenever any Administrator General applies for letters of administration in accordance with the provisions of this Act, it shall be sufficient if the petition required to be presented for the grant of such letters states,

- (i) the time and place of the death of the deceased to the best of the knowledge and belief of the petitioner,

¹ Subs. by the A. O. for "Presidency".

(Part VI.—Miscellaneous.)

50. (1) The Government shall make rules¹ for carrying into effect the objects of this Act and for regulating the proceedings of the Administrator General. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the accounts to be kept by the Administrator General and the audit and inspection thereof,

(b) the safe custody, deposit and investment of assets and securities which come into the hands of the Administrator General,

(c) the remittance of sums of money in the hands of the Administrator General in cases in which such remittances are required,

(d) subject to the provisions of this Act, the fees to be paid under this Act, and the collection and accounting for any such fees,

(e) the statements, schedules and other documents to be submitted to the Government or to any other authority by the Administrator General, and the publication of such statements, schedules or other documents,

(f) the realization of the cost of preparing any such statements, schedules or other such documents,

2 * * * * * *

(g) the manner in which and the person by whom the costs of and incidental to any audit under the provisions of this Act are to be determined and defrayed,

(h) the manner in which summonses issued under the provisions of section 46 are to be served and the payment of the expenses of any persons summoned or examined under the provisions of this Act and of any expenditure incidental to such examination, and

(i) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Act.

51. Whoever, during any examination authorised by this Act, makes upon oath a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding. False evidence.

52. All assets in the charge of the Administrator General which have been in his custody for a period of twelve years or upwards whether before or after the commencement of this Act without any application for payment thereof Assets unclaimed for twelve years to be transferred to Government.

¹ For such rules for Bengal, see Gen. R. and O., Vol. IV, p. 406 ; for Madras, see Madras R. and O., 1923, Vol. I, Pt. II, p. 231 ; for Bombay, see Bombay R. and O., 1924, Vol. II, p. 773 ; for the provinces of Assam, U. P. and Punjab, see the local Gazettes of 1914 or the latest editions of the Rules and Orders of those provinces.

² Clause (ff), ins. by the Repealing and Amending Act, 1914 (10 of 1914), was rep. by the Destruction of Records Act, 1917 (5 of 1917), s. 6 and Sch.

SECTIONS.

11. Investment of Sinking Fund.
12. Income of Sinking Fund to be added to Fund in certain cases.
13. Application of Repairs Fund.
14. Repairs Fund to be kept up to the sum of Rs. 2,00,000.
15. Application of income of Repairs Fund.
16. Power of Corporation to sell or exchange the premises described in the Schedule.
17. Powers of Corporation as regards sale or exchange.
18. Investment of sale proceeds.
19. Vesting of lands and hereditaments in Corporation.
20. Application of income during minority of Baronet.
21. Power of Baronet to appoint jointures in lieu of maintenance and other claims.
22. Limit of total amount of such jointures chargeable on income.
23. Provision for widow of Baronet dying under age.
24. Amount payable under section 23 to be deemed a jointure for purposes of section 22.
25. Vesting in Corporation of lands and hereditaments other than those described in the Schedules.
26. Application of insurance moneys in respect of properties destroyed or damaged by fire.
27. Ultimate trust in favour of heir on extinction of Baronetcy.
28. Reimbursement of expenses of Corporation.
29. Management of hereditaments vested in Corporation.
30. Saving of existing rights.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

ACT No. IV OF 1913.

[27th February, 1913.]

An Act for settling certain properties belonging to Sir Currimbhoy Ebrahim, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred on him by His Majesty King George V to hold to him and the heirs male of his body lawfully begotten, and to be begotten, and for other purposes connected therewith.

WHEREAS by Letters Patent King George V by the Grace of God of the Preamble. United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King Defender of the Faith Dated at Westminster the 20th day of July 1911 in the First Year of His Reign and by Warrant under the King's Sign Manual His said Majesty made known that He of His Special Grace certain knowledge and mere motion had erected appointed and created His trusty and well-beloved Sir Currimbhoy Ebrahim of Bombay Knight

(Part III.—Rights, Powers, Duties and Liabilities of the Administrator General.
Part IV.—Fees.)

General nor any of his officers has in any way contributed, or which neither he nor any of his officers could, by the exercise of reasonable diligence have averted, and in either of those cases the Administrator General shall not, nor shall the revenues ¹[of the Government],² * * * * * be subject to any liability.

(2) Nothing in sub-section (1) shall be deemed to render ¹[the Government]² * * * * * or the Administrator General liable for anything done before the commencement of this Act, by or under the authority of the Administrator General.

40. (1) If any suit be brought by a creditor against any Administrator General, such creditor shall be liable to pay the costs of the suit unless he proves that not less than one month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of his claim, and had given such evidence in support thereof as, in the circumstances of the case, the Administrator General was reasonably entitled to require.

(2) If any such suit is decreed in favour of the creditor, he shall, nevertheless, unless he is a secured creditor, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

41. Nothing in section 80 of the Code of Civil Procedure, 1908, shall apply ^v of to any suit against the Administrator General in which no relief is claimed against him personally.

PART IV.

FEES.

42. (1) There shall be charged in respect of the duties of the Administrator General such fees, whether by way of percentage or otherwise, as may be prescribed by the Government :

Provided that, in the case of any estate, the administration of which has been committed to the Administrator General before the commencement of this Act, the fees prescribed under this section shall not exceed the fees leviable in respect of such estate under the Administrator General's Act, 1874³, II of as subsequently amended :

Provided further that, in respect of the duties of the Administrator General under the Regimental Debts Act, 1893⁴, the fees prescribed in this section shall be determined in accordance with the provisions of that Act.

¹ The words " of the Government or " were ins. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 6.

² The words " or the G. of I. " rep. by the A. O.

³ Rep. by the Administrator General's Act, 1913 (3 of 1913).

⁴ Coll. of Stats. Ind., Vol. II.

said purposes should be effected by an Act of the Council of the Governor General for making laws and regulations ; It is hereby enacted as follows :—

1. This Act may be called “ The Sir Currimbhoy Ebrahim Baronetcy Short title. Act, 1913.”

2. Arthur Montague Brigstoke, Esqr., the Accountant-General of Bombay, Edward Little Sale, Esqr., the Collector of Bombay, Arthur Henry Southcote Aston, Esqr., the Chief Presidency Magistrate of Bombay, and the said Sir Currimbhoy Ebrahim, Baronet and their successors, the Accountant-General of Bombay, the Collector of Bombay, the Chief Presidency Magistrate of Bombay, all for the time being and the heir male of the body of the said Sir Currimbhoy Ebrahim to whom the said title and dignity of Baronet conferred by the said Letters Patent shall for the time being descend shall be and they are hereby created a Corporation with perpetual succession and a common seal under the style and title of “ The Trustees of the Sir Currimbhoy Ebrahim Baronetcy ” and the said Arthur Montague Brigstoke, Esqr., Edward Little Sale, Esqr., Arthur Henry Southcote Aston, Esqr., and Sir Currimbhoy Ebrahim, Bart. and their said successors (hereinafter styled “ the Corporation ”) shall be and they are hereby constituted as such Corporation the Trustees for executing the trusts powers and purposes of this Act.

3. The heirs male of the body of the said Sir Currimbhoy Ebrahim to whom the said title and dignity shall descend pursuant to the limitations of the Letters Patent whereby the said title and dignity have been granted shall take upon themselves respectively the names of “ Currimbhoy Ebrahim ” in lieu and place of any other name or names whatever ; and such heirs male severally and successively shall be called by the names of “ Currimbhoy Ebrahim ” and by these names shall name style and write themselves respectively upon all occasions whatever.

4. In case any person to whom for the time being the said title of Baronet shall have descended shall for the space of one whole year thereafter or being then under age shall for the space of one whole year after he shall attain the age of eighteen years refuse or neglect to use the names of “ Currimbhoy Ebrahim ” as hereinbefore enacted or in case any such person having so used these names shall for the space of one whole year discontinue to use the said names then in any or either of the said cases the estate or interest in the said hereditaments and premises hereby settled and in the hereditaments and moneys which shall hereafter become vested in the said Corporation by virtue of this Act upon the trusts and for the purposes herein declared and contained, of the person who shall so refuse or neglect to use or having used shall so discontinue to use the said names shall during the remainder of his natural life be suspended and that during any and every such suspension the benefits and trusts hereby created for the heir male of the body of the said Sir Currimbhoy Ebrahim who shall use these names shall devolve on and belong to the heir male of the body of the said Sir Currimbhoy Ebrahim who would have succeeded to the said title of Baronet conferred by the said Letters Patent on the said Sir Currimbhoy Ebrahim in the case the heir male of the body of the said Sir Currimbhoy Ebrahim so refusing or neglecting to use

Incorporation
of Trustees.

Heirs of Sir
Currimbhoy
Ebrahim
to take his
name.

Devolution
of interest
where
beneficiary
refuses,
neglects or
discontinues
to use the
names
“ Currimbhoy
Ebrahim.”

(Part V.—Audit of the Administrator General's Accounts. Part VI.—Miscellaneous.)

- (b) to examine any person on oath to be by him administered ; and
- (c) to issue a commission for the examination on interrogatories or otherwise of any person ; and
- (d) to summon any person to produce any document or thing the production of which appears to be necessary for the purpose of such audit or examination.

(2) Any person who when summoned refuses, or without reasonable cause, neglects to attend or to produce any document or thing or attends and refuses to be sworn, or to be examined, shall be deemed to have committed an offence within the meaning of, and punishable under, section 188 of the Indian Penal Code, and the auditor shall report every case of such refusal or neglect to Government.

XLV o

47. The costs of and incidental to such audit and examination shall be determined in accordance with rules made by the Government, and shall be defrayed in the prescribed manner.

PART VI.

MISCELLANEOUS.

48. The Administrator General may, in addition to, and not in derogation of, any other powers of expenditure lawfully exerciseable by him, incur expenditure—

- (a) on such acts as may be necessary for the proper care and management of any property belonging to any estate in his charge ; and
- (b) with the sanction of the High Court¹* * * * on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

49. Any person interested in the administration of any estate, which is in the charge of the Administrator General shall, subject to such conditions and restrictions as may be prescribed, be entitled at all reasonable times to inspect the accounts relating to such estate and the reports and certificates of the auditor, and on payment of the prescribed fee, to copies thereof and extracts therefrom.

¹ The words " at the Presidency-town " rep. by the A. O.

tion and of insuring the same against fire and all other outgoings of every nature whatsoever.

7. The said Corporation shall out of the income referred to in section 6 hereof remaining after making the payments in the same section mentioned form for the purposes hereinafter mentioned two funds to the credit of one of which (hereinafter referred to as the "Sinking Fund") the said Corporation shall carry every ¹[year] an amount which shall be equal to 00·61 per cent. calculated on the said sum of Rupees (20,00,000) Twenty Lacs and in the event of other hereditaments being vested in the said Corporation upon the trusts and for the purposes by and in this Act declared and contained under and by virtue of the provisions of section 25 of this Act on the aggregate of the said sum of Rupees (20,00,000) Twenty Lacs and the value of the additional hereditaments so vested and to the credit of the other of which (hereinafter referred to as the "Repairs Fund") the said Corporation shall carry every ¹[year] an amount which shall be equal to 3·72 per cent. calculated on a Capital sum of Rupees (2,00,000) Two Lacs until such fund shall amount to the sum of Rupees (2,00,000) Two Lacs.

Raising of the "Sinking Fund" and the "Repairs Fund".

8. The residue of the income referred to in section 6 hereof remaining after the payments mentioned in the same section are made and after the several sums are carried to the credit of the said Sinking Fund and the said Repairs Fund respectively as provided in section 7 hereof shall be paid to the said Sir Currimbhoy Ebrahim and the heir male of his body who shall for the time being have succeeded to and be in the enjoyment of the title of Baronet conferred by the said Letters Patent and shall be of full age for his own absolute use and benefit.

Payment of the residue of the income to the Baronet for the time being.

9. The sums which shall from time to time under the provisions of this Act be set aside for the formation respectively of the Sinking Fund and the Repairs Fund (as also the interest of the securities in which the same respectively shall be invested) shall be invested by the said Corporation in or on any stocks funds or other securities of or the principal and interest of which is guaranteed by the Government of the United Kingdom of Great Britain and Ireland or the ²[Central Government] and the said Corporation shall be at liberty as often as the same shall be necessary or thought proper by them to alter vary and change such stocks funds and securities for others of the same or like nature.

Investment of sums set apart for formation of Funds.

10. When and as often as the said Sinking Fund shall amount to the sum of Rs. (20,00,000) Twenty Lacs and in the event of additional hereditaments having been vested in the said Corporation upon the trusts and for the purposes by and in this Act declared and contained under and by virtue of the provisions of section 25 of this Act to the sum which shall be equal to the said sum of Rs. (20,00,000) Twenty Lacs and the value of the additional hereditaments so vested the said Corporation shall by force and virtue of this Act be divested of the hereditaments which shall then be vested in the said

Devolution of properties mentioned in Schedule II on full amount of Sinking Fund being raised.

¹ Subs. by s. 2 of the Sir Currimbhoy Ebrahim Baronetcy (Amendment) Act, 1917 (25 of 1917) for "six months".

² Subs. by the A. O. for "G. of I."

(Part VI.—Miscellaneous.)

having been made and granted by him shall be transferred, in the prescribed manner, to the account and credit of the Government¹ * * * :

Provided that this section shall not authorise the transfer of any such assets as aforesaid, if any suit or proceeding is pending in respect thereof in any Court.

53. (1) If any claim is hereafter made to any part of the assets transferred to the account and credit of the Government¹ * * * under the provisions of this Act, or any Act hereby repealed, and if such claim is established to the satisfaction of the prescribed authority, the Government¹ * * * shall pay to the claimant the amount of the principal so transferred to its account and credit or so much thereof as appears to be due to the claimant.

(2) If the claim is not established to the satisfaction of the prescribed authority, the claimant may, without prejudice to his right to take any other proceedings for the recovery of such assets, apply by petition to the High Court² * * * * * against the ³[Government], and such Court, after taking such evidence as it thinks fit, shall make such order in regard to the payment of the whole or any part of the said principal sum as it thinks fit, and such order shall be binding on all parties to the proceeding :

⁴[Provided that nothing in this section affects any option afforded to a claimant by section 179 of the Government of India Act, 1935.]

(3) The Court may further direct by whom the whole or any part of the cost of each party shall be paid.

54. (1) Whenever any person, other than an exempted person, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator General of the ⁵[Division] stating the following particulars so far as they may be known to him :—

(a) the amount and nature of the assets,

(b) whether or not the deceased left a will and, if so, in whose custody it is,

(c) the names and addresses of the surviving next-of-kin of the deceased, and, on the lapse of one month from the date of the death,

(d) whether or not any one has applied for probate of the will of the deceased or letters of administration of his estate.

(2) The District Judge shall retain the assets under his charge, or appoint an officer under the provisions of section 239⁶ of the Indian Succession Act, 1865, to take and keep possession of the same until the Administrator General X has obtained letters of administration, or until some other person has obtained

¹ The words " of India " rep. by the Official Trustees and Administrator General's Acts Amendment Act, 1922 (21 of 1922), s. 7.

² The words " at the Presidency-town " rep. by the A. O.

³ Subs. by the A. O. for " Secretary of State for India in Council".

⁴ Ins. by the A. O.

⁵ Subs. by the A. O. for " Presidency".

⁶ See now s. 269 of the Indian Succession Act, 1925 (39 of 1925).

(Part VI.—Miscellaneous.)

Sir Currimbhoy Ebrahim Baronetcy. [1913 : Act IV.]

General, entitled to apply to a Court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such Court of any Consular Officer of such foreign State, be granted to such Consular Officer on such terms and conditions as the Court may, subject to any rules made in this behalf by the ¹[Central Government] by notification in the ²[Official Gazette] think fit to impose.

58. [Division of Presidency into Provinces.] Rep. by the A. O.

59. Nothing in this Act shall be deemed to affect the provisions of the Indian Registration Act, 1908. XV.

³[59A. The amendments⁴ of this Act which come into force on the commencement of Part III of the Government of India Act, 1935, shall not affect the jurisdiction of any court with respect to any proceedings then pending before it and shall not be construed as transferring the administration of any property or estate then in the hands of any Administrator-General to any other Administrator-General.] 26 C
5, c.

60. [Repeals.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE SCHEDULE.—[ENACTMENTS REPEALED.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE SIR CURRIMBHOY EBRAHIM BARONETCY ACT, 1913.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Incorporation of Trustees.
3. Heirs of Sir Currimbhoy Ebrahim to take his name.
4. Devolution of interest where beneficiary refuses, neglects or discontinues to use the names "Currimbhoy Ebrahim".
5. Vesting of settled property and trusts in respect thereof.
6. Payment of rates, taxes, etc., by Corporation.
7. Raising of the "Sinking Fund" and the "Repairs Fund".
8. Payment of the residue of the income to the Baronet for the time being.
9. Investment of sums set apart for formation of Funds.
10. Devolution of properties mentioned in Schedule II on full amount of Sinking Fund being raised.

¹ Subs. by the A. O. for "G. G. in C."

² Subs. by the A. O. for "Gazette of India."

³ Ins. by the A. O.

⁴ I. e. the amendments by the A. O. which came into force on the 1st April, 1937, simultaneously with Part III of the G. of I. Act, 1935.

to the dignity state and degree of a Baronet and him the said Sir Currimbhoy Ebrahim for himself his heirs and successors he did erect appoint and create a Baronet of the United Kingdom of Great Britain and Ireland by the said Letters Patent to hold the said dignity state and degree of Baronet unto him the said Sir Currimbhoy Ebrahim and the heirs male of his body lawfully begotten and to be begotten and whereas the said Sir Currimbhoy Ebrahim is desirous of settling in perpetuity such property on himself and the heirs male of his body who may succeed to the title of Baronet conferred by the said Letters Patent as shall be adequate to support the dignity of the title conferred on him and them as aforesaid and whereas the said Sir Currimbhoy Ebrahim is seized of and otherwise well and sufficiently entitled to the hereditaments described in Part I of the First Schedule hereunder written situate in the Island of Bombay and the hereditaments described in Part II of the said First Schedule situate at Poona in the Presidency of Bombay and whereas the hereditaments particularly described in the Second Schedule hereunder written were respectively by the several leases particularly specified in the Third Schedule hereunder written demised unto the said Sir Currimbhoy Ebrahim his heirs executors administrators and assigns with the appurtenances thereof respectively to hold the same unto the said Sir Currimbhoy Ebrahim his heirs executors administrators and assigns from the respective days therein respectively mentioned for the respective terms thereby granted subject to the payment of the rents thereby respectively reserved and the performance and observance of the covenants on the part of the Lessee and conditions therein respectively contained and whereas the said Sir Currimbhoy Ebrahim is desirous of settling the said hereditaments and premises particularly described in the First and Second Schedules hereunder written (all which are assessed to be of the aggregate market value of Rupees (20,00,000) Twenty lakhs) upon the trusts and for the purposes hereinafter declared and contained concerning the same premises and whereas the said Sir Currimbhoy Ebrahim is desirous that heirs male of his body to whom the said title of Baronet conferred by the said Letters Patent shall descend shall at the time of such descent upon them respectively take and bear the name of " Currimbhoy Ebrahim " in lieu of any other name or names whatever which they respectively may bear at the time of such descent on them respectively and he is also desirous that the Accountant-General, Bombay, the Collector of Bombay, the Chief Presidency Magistrate of Bombay all for the time being and the person in the actual enjoyment of the title of Baronet conferred by the said Letters Patent for the time being shall be the Trustees of the said hereditaments and premises and be likewise the Trustees for carrying into execution the general purposes and powers and provisions of this Act with relation to the said hereditaments and premises and whereas the said Sir Currimbhoy Ebrahim is desirous of settling the said hereditaments and premises so intended to be settled by him as aforesaid for the purposes of supporting the dignity of the said Baronetcy upon the trusts and for the purposes hereinafter limited and declared concerning the same and whereas it is expedient that the said trusts should be declared and the

the income thereof shall be applied as the income of the premises so destroyed or damaged.

27. Upon failure and in default of heirs male of the body of the said Sir Currimbhoy Ebrahim to whom the same title of Baronet may descend the said Corporation shall stand possessed of the said hereditaments and premises particularly described in the First Schedule hereunder written and of any other hereditaments of a freehold tenure and of the funds which may then be vested in them by virtue and operation of this Act upon trust for the heirs of the last Baronet absolutely and shall also stand possessed of the said hereditaments and premises particularly described in the Second Schedule hereunder written or such of them as may then be still vested in the said Corporation and any other hereditaments of a leasehold tenure which may then be vested in the said Corporation by virtue of this Act upon trust for the heirs of the last Baronet for all the then residues of the terms granted by the leases by which the same are demised.

Ultimate trust in favour of heir on extinction of Baronetcy.

28. It shall be lawful for the said Corporation out of any moneys which shall come to their hands by virtue of the trusts and provisions of this Act to retain and reimburse themselves all costs expenses and damages which they shall or may sustain expend or disburse in or about the execution of the trusts powers and provisions herein contained or in relation thereto.

Reimbursement of expenses of Corporation.

29. The actual management of the hereditaments for the time being vested in the said Corporation including the collection of rents and carrying out repairs shall be in the hands of the person in the actual enjoyment for the time being of the said title of Baronet conferred by the said Letters Patent being of full age, subject nevertheless to the control and supervision of the said Corporation.

Management of hereditaments vested in Corporation.

30. Saving always to the King's Most Excellent Majesty, his heirs and successors and to all and every other person and persons bodies politic and corporate and his her and their respective heirs executors and administrators and successors and every of them (other than and except the said Sir Currimbhoy Ebrahim his devisees and heirs and assigns) all such estate right title interest claim and demand whatsoever of into out of or upon the said hereditaments and premises particularly described in the First and Second Schedules hereunder written or any part or parts thereof respectively as they every or any of them had before the passing of this Act and would could or might have had held or enjoyed in case this Act had not been passed.

Saving of existing rights.

THE FIRST SCHEDULE.

PART I.

First.—All that piece or parcel of land or ground with the messuage tenement or bungalow standing thereon situate lying and being on the Western side of Pedder Road Cumballa Hill near Mahalaxmi in the Island of Bombay in the Sub-District of the Registrar of Bombay and containing by admeasurement two thousand one hundred and forty-seven square yards or thereabouts be the same little more or less and bounded as follows that is to say

or discontinuing to use the said name had departed this life; and if there shall not be at such time any such male heir of the body of the said Sir Currimbhoy Ebrahim then the hereditaments and premises hereby settled as also the hereditaments and moneys which shall hereafter become vested in the said Corporation by virtue of this Act shall be retained by the said Corporation and accumulated for the benefit of the male issue of the said Baronet that may subsequently be born and succeed to the said title and in default of any such male issue the whole of the said property shall devolve upon such person as would be entitled to the same if there had been a total failure of issue male of the said Sir Currimbhoy Ebrahim.

5. Immediately upon the passing of this Act by force and virtue thereof the hereditaments and premises particularly described in the First Schedule hereunder written shall be vested in the said Corporation upon the trusts and for the purposes and with and subject to the powers provisions and declarations hereinafter declared and expressed and the hereditaments and premises particularly described in the Second Schedule hereunder written shall be vested in the said Corporation for all the respective residues of the respective terms granted by the said leases respectively to come and unexpired at the date of the passing of this Act upon the trusts and for the purposes and with and subject to the powers provisions and declarations hereinafter declared and expressed that is to say upon trust to permit the said Sir Currimbhoy Ebrahim for and during the term of his natural life and from and immediately after his decease to permit during the respective terms of their natural lives the successive male heirs of the body of the said Sir Currimbhoy Ebrahim who shall succeed to the title of Baronet conferred by the said Letters Patent (if he or they shall so desire) to use and occupy free of rent as their residence the hereditaments and premises particularly described in the Second part of the First Schedule hereunder written and also to use and occupy as his residence free of rent any one of the said hereditaments and premises particularly described in the First part of the First and in the Second Schedules hereunder written and to demise all or any of the remaining hereditaments and premises for any term of years not exceeding seven years to take effect in possession within three months from the date of the lease.

6. Out of the income of the premises particularly described in the First and the Second Schedules hereunder written (other than the premises which shall for the time being be used and occupied as a residence by the said Sir Currimbhoy Ebrahim or the heir male of his body to whom the said title of Baronet conferred by the said Letters Patent shall have descended) the said Corporation shall pay the rents and perform and observe the covenants by the Lessee and conditions by and in the said several indentures of lease reserved and contained and pay all rates taxes assessments dues and duties in respect of the said hereditaments and premises particularly described in the First and Second Schedules hereunder written and all buildings and erections standing thereon respectively and defray the cost of all ordinary repairs required for the purpose of maintaining such buildings in a habitable condi-

on the South by the land known as Plots Nos. 11A and 11C on the said Improvement Trust Estate which said piece of land is known as Plot No. 11B. Wodehouse Road and which said premises are assessed by the Collector of Land Revenue under New Survey No. 9561 and are assessed by the Municipality under Ward No. 886 (1-3) Street Nos. 16, 16B together with the buildings now erected and built thereon and known as Hotel Majestic.

Secondly :—All that piece of Leasehold Land situate on the East side of a New Road on the Esplanade in the City and Island and Sub-Registration District of Bombay which has been computed to contain the total area of one thousand five hundred and seventeen square yards or thereabouts and which is bounded on the North by a passage on the East by vacant land of the Bombay Improvement Trust on the South by Plot No. 6 Wellington Lines and on the West by a New Road and which said piece of land is known as Plot No. 7 Wellington Lines and which premises are assessed by the Collector of Land Revenue under part of New Survey Nos. 90562 and 90563 and are assessed by the Municipality under Ward No. 1301 (7) Street No. 3 together with the buildings and premises erected and built thereon and which premises are known as Meher Mansions.

Thirdly :—All that piece of Land situate on the East side of a New Road on the Esplanade in the City and Island and Sub-Registration District of Bombay which has been computed to contain a total area of one thousand and five hundred square yards or thereabouts and which is bounded on the North by Plot No. 4 Wellington Lines on the East by the land of the Bombay Improvement Trust proposed to be laid out as a central garden on the South by Plot No. 2 Wellington Lines and on the West by the New Road aforesaid which said piece of land is known as Plot No. 3 Wellington Lines and which said premises are assessed by the Collector of Land Revenue under New Survey No. 9562 and are assessed by the Municipality under Ward No. 1301 (3) Street No. 3B together with the buildings and premises now erected and built thereon.

Fourthly :—All that piece of Leasehold Land situate on the Colaba Reclamation in the Lower Colaba Division of A Ward in the City and Island and Sub-Registration District of Bombay which piece of land has been computed to contain a total area of two thousand four hundred and forty-nine square yards or thereabouts be the same more or less and which is bounded on the North-East by Fazal Road on the South-East by a 40 Feet Road and on the South-West by Plots Nos. 5 and 6 belonging to Fazalbhoy Currimbhoy Ebrahim and on the North-West by Cuffe Parade which said piece of land is known as Plots Nos. 6 and 7 on the Colaba Reclamation and which said premises are assessed by the Collector of Land Revenue under New Survey No. 9765 and are assessed by the Municipality under Ward Nos. 120, 225 (11) Street No. 12 J together with all buildings and premises now erected and built thereon.

Fifthly :—All that piece of land situate on the Colaba Reclamation in the Lower Colaba Division of A Ward in the City and Island and Sub-Registration District of Bombay which piece of land has been computed to contain

Corporation by force and virtue of this Act and such of them as shall be of a freehold tenure shall by force and virtue of this Act become vested absolutely and such of them as are of a leasehold tenure shall become vested for all the residues then unexpired of the several terms for which the same may be demised by the respective leases relating to them for his own use and benefit in the heir male of the body of the said Sir Currimbhoy Ebrahim who shall then have succeeded him in the title of Baronet conferred by the said Letters Patent.

11. When and as often as the said Sinking Fund shall amount to the said sum of Rs. (20,00,000) Twenty Lacs and in the event of such further hereditaments having been added as mentioned in the last section to the sum which shall represent the aggregate of the said sum of Rs. (20,00,000) Twenty Lacs and the value of such additional hereditaments the said Corporation shall with all convenient despatch invest the same in the purchase of land and hereditaments situate in the Presidency of Bombay of a freehold or of a leasehold tenure provided that in the event of the purchase of premises of a leasehold tenure the leases in respect of such premises shall be renewable in perpetuity reserving a nominal rent and without any onerous conditions and covenants on the part of the Lessee.

12. From and after the time that the capital of the said Sinking Fund shall amount to the said sum of Rs. (20,00,000) Twenty Lacs and in the event mentioned in section 10 hereof to the sum which shall represent the aggregate of the said sum of Rs. (20,00,000) Twenty Lacs and the value of the additional hereditaments so vested as aforesaid the income thereof or of such part thereof shall not be so invested as aforesaid shall be credited to the said Sinking Fund and invested as directed by section 9 hereof and shall not form part of the capital sum on which the same accrues.

13. The said Repairs Fund shall be applied by and at the discretion of the said Corporation to the extraordinary structural repair of the buildings or building standing upon the said hereditaments and premises particularly described in the First and Second Schedules hereunder written or upon any other the hereditaments which may by virtue and operation of this Act at any time become vested in the said Corporation.

14. If and so soon as any part of the said Repairs Fund shall have been applied for any of the purposes mentioned in section 13 hereof the same shall be made up again to the said sum of Rs. 2,00,000 by setting aside and carrying to the credit thereof every ¹[year] out of the income of the hereditaments and premises which shall at any such time be vested in the said Corporation by virtue of this Act remaining after making the payments mentioned in section 6 hereof an amount which shall be equal to 3.72 per cent. calculated on a Capital sum of Rs. (2,00,000) Two Lacs and also by setting aside and carrying to the credit of such fund the income of the part thereof which shall not have been so applied as directed by section 13 hereof until such fund shall again amount to the said sum of Rs. 2,00,000.

¹ Subs. by s. 2 of the Sir Currimbhoy Ebrahim Baronetcy (Amendment) Act, 1917 (25 of 1917) for "six months".

Provided that any such person may, at the time the sample is taken, and on providing the necessary appliances, require the Inspector to divide the sample so taken into two parts, and to mark, seal and deliver to him one part.

(2) Any person who refuses to permit any such Inspector of Factories as aforesaid to take a sample, in accordance with the provisions of sub-section (1), shall be punishable with fine which may extend to two hundred rupees.

6. (1) No person shall sell, or offer or expose for sale, or have in his possession for the purposes of sale, any matches made with white phosphorus. Prohibition of sale.

(2) Any person who contravenes the provisions of sub-section (1) may, on complaint to a Presidency Magistrate, Sub-divisional Magistrate or Magistrate of the first class, be ordered to forfeit any such matches in his possession, and any matches so forfeited shall be destroyed or otherwise dealt with as the Magistrate may direct.

THE MUSSALMAN WAKF VALIDATING ACT, 1913.

ACT No. VI OF 1913.¹

[7th March, 1913.]

An Act to declare the rights of Mussalmans to make settlements of property by way of "wakf" in favour of their families, children and descendants.

WHEREAS doubts have arisen regarding the validity of wakfs created by persons professing the Mussalman faith in favour of themselves, their families, children and descendants and ultimately for the benefit of the poor or for other religious, pious or charitable purposes; and whereas it is expedient to remove such doubts; It is hereby enacted as follows:—

1. (1) This Act may be called the Mussalman Wakf Validating Act, Short title and extent.
1913.

(2) It extends to the whole of British India.

¹ For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 107; for Report of Select Committee, see *ibid.*, 1913, Pt. V, p. 39; and for Proceedings in Council, see *ibid.*, 1911, Pt. VI, p. 402, and *ibid.*, 1913, Pt. VI, pp. 29, 65 and 147.

This Act has been declared to be in force in the Sonthal Parganas by Notification under s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872), see B. & O. Gazette, 1914, Pt. II, p. 413.

It has been applied to wakfs created before its commencement, see the Mussalman Wakf Validating Act, 1930 (32 of 1930), s. 2.

Corporation upon the trusts and for the purposes by and in this Act declared and contained of and concerning the said hereditaments and premises particularly described in the First and Second Schedules hereunder written or such of them as may then be subsisting and capable of taking effect and subject to the powers provisions and declarations in this Act contained concerning the same in the same manner and to the same effect as if such hereditaments had been expressly vested by this Act in the said Corporation upon the trusts and for the purposes in this Act declared and contained.

20. The said Corporation during the minority of any heir male of the body of the said Sir Currimbhoy Ebrahim for the time being entitled to and in the enjoyment of the title of Baronet conferred by the said Letters Patent shall pay and apply for and towards the maintenance education and benefit of such Baronet during his minority so much only of the income of the hereditaments which shall be vested in them for the purposes and upon the trusts by and in this Act declared and contained, which by section 8 hereof is directed to be paid to the heir male of the body of the said Sir Currimbhoy Ebrahim entitled to and in the enjoyment of the title of Baronet conferred by the said Letters Patent who shall be of full age as the said Corporation shall in their discretion think proper and shall from time to time invest the residue thereof upon the securities specified in section 9 hereof and shall upon such Baronet attaining his age of majority pay over assign and transfer to him or as he shall direct and for his absolute benefit such investments and all accumulations thereof and in the event of the death of such Baronet before attaining his age of majority the said Corporation shall stand possessed of such investments and the accumulations thereof upon trust for the heirs of such Baronet absolutely.

21. It shall be lawful for the said Sir Currimbhoy Ebrahim and for any heir male of his body on whom the title of Baronet conferred by the said Letters Patent shall from time to time descend of full age and when in the actual enjoyment of the said title and who shall not refuse or neglect or discontinue to use for the period hereinbefore in that behalf mentioned the said names of "Currimbhoy Ebrahim" as hereinbefore enacted either before or after his marriage with any woman or women by any deed or will (but subject and without prejudice to the annuity or annuities if any which shall then be subsisting and payable by virtue of any appointment made under and in pursuance of this present power) to limit and appoint unto any woman or women whom he shall marry for her or their life or lives and for her or their maintenance or jointure or jointures in bar of any legal or customary right to maintenance or any other claim whatsoever, any annuity or annuities not exceeding in all the sum of Rs. 10,000 to commence and take effect immediately after the decease of the Baronet limiting or appointing the same to be issuing and payable out of the said income payable under this Act for his own absolute use and benefit to the heir male of the body of the said Sir Currimbhoy Ebrahim on whom the said title of Baronet conferred by the said Letters Patent shall have descended and who shall be of full age and to be paid and payable by equal half-yearly payments the first of such half-

SECTIONS.

- 57. Addition to name of company of "and reduced".
- 58. Objections by creditors and settlement of list of objecting creditors.
- 59. Power to dispense with consent of creditor on security being given for his debt.
- 60. Order confirming reduction.
- 61. Registration of order and minute of reduction.
- 62. Minute to form part of memorandum.
- 63. Liability of members in respect of reduced shares.
- 64. Penalty on concealment of name of creditor.
- 65. Publication of reasons for reduction.
- 66. Increase and reduction of share capital in case of a company limited by guarantee having a share capital.

Variation of Shareholders' Rights.

- 66-A. Rights of holders of special classes of shares.

Registration of Unlimited Company as Limited.

- 67. Registration of unlimited company as limited.
- 68. Power of unlimited company to provide for reserve share capital on re-registration.

Reserve Liability of Limited Company.

- 69. Reserve liability of limited company.

Unlimited Liability of Directors.

- 70. Limited company may have directors with unlimited liability.
- 71. Special resolution of limited company making liability of directors unlimited.

PART IV.

MANAGEMENT AND ADMINISTRATION.

Office and Name.

- 72. Registered office of company.
- 73. Publication of name by a limited company.
- 74. Penalties for non-publication of name.
- 75. Publication of authorised as well as subscribed and paid-up capital.

sent of the ¹[Provincial Government of Bombay] notified as aforesaid accept such lands hereditaments and premises and the same shall thenceforth be held by the said Corporation upon the same trusts and for the same purposes and subject to the same powers provisions and declarations as are by and in this Act declared and contained with regard to the said hereditaments and premises particularly described in the First and Second Schedules hereunder written or upon such of them as shall then be subsisting and capable of taking effect in the same manner and to the same effect as if such hereditaments had been expressly vested by this Act in the said Corporation upon the trusts and for the purposes in this Act declared and contained. Provided always that the total value of the additional premises so vested in the said Corporation shall not exceed Rs. (20,00,000) Twenty Laes. Provided also that if at such date the person who shall then have succeeded to the said title be a minor under the age of 18 years then he shall be entitled to exercise the liberty hereby reserved at any time before the expiration of one year after he shall have attained his age of majority.

26. In case any of the hereditaments which shall at any time be vested in the said Corporation shall be destroyed or damaged by fire the moneys received in respect of such insurance shall in case the premises so destroyed or damaged are any of the hereditaments and premises particularly described in the Second Schedule hereunder written or are comprised in any indenture of lease be applied in accordance with the provisions in that behalf contained in the lease by which the same are demised and in case of any other premises be applied either in rebuilding or reinstating the premises so destroyed or damaged by fire or upon the application of the person for the time being entitled to and in the enjoyment of the said title of Baronet and with the consent of the ¹[Provincial Government of Bombay] notified as aforesaid may be laid out in the purchase of other hereditaments in the Presidency of Bombay of a freehold or of a leasehold tenure provided that the leases in respect of such premises are renewable in perpetuity reserving a nominal rent without any onerous covenants on the part of the lessee and conditions. In the event of such purchase the hereditaments so purchased shall immediately from and after the completion of the purchase thereof vest in the said Corporation upon the trusts and for the purposes by and in this Act declared and contained of and concerning the hereditaments and premises particularly described in the First and Second Schedules hereunder written or such of them as may then be subsisting and capable of taking effect and subject to the powers provisions and declarations in this Act contained concerning the same in the same manner and to the same effect as if such hereditaments had expressly been vested by this Act in the said Corporation upon the trust and for the purposes in this Act declared and contained. Until such insurance moneys shall be so laid out the said Corporation shall invest the same in one or more of the securities specified in section 9 hereof and

¹ Subs. by the A. O. for "Governor of Bombay in Council".

on or towards the North by a loose stone Gudya and beyond that the vacant land of Trimbuck Jugounath on or towards the East by the Government ground and beyond that by the said Pedder Road on or towards the West and South by a loose stone Gudya and beyond that by the vacant land belonging to Nowroji Jehangir Gamadia registered by the Collector of Land Revenue under Old No. 616 New No. 2861 Old Survey No. 81 New Survey Nos. 7075, 7113, 7119 and assessed by the Municipality under Street Nos. 102, 112 Ward No. 3494.

Secondly :—All that piece of Government ground with the messuage or dwelling house standing thereon situate on the East side of Shamjee Hassajee Street now called Samuel Street in the Registration Sub-District of Bombay containing by admeasurement two hundred and eighteen square yards or thereabouts assessed under Ward B. No. 1667 and Street 165-167 and registered in the books of the Collector of Land Revenue under Old No. 1023 and New No. 6751 Old Survey No. 198 and New Survey No. 2788 and bounded on the East by a Sweeper's passage on the West by Shamji Hassajee Street or Samuel Street on the North by the property formerly of Khan Mahomed Habibbhoy but now of Ebrahim Hassam and on the South by the property formerly of Cassum Natha but now of Currimbhoy Ebrahim.

PART II.

All that piece or parcel of vacant land or ground situate lying and being in the Civil Lines of Poona in the Registration Sub-District of Haveli containing by admeasurement three acres twenty-eight Gunthas and forty-one square yards being equal to seventeen thousand nine hundred and forty-nine square yards or thereabouts being portion of land registered in the Books of the Collector under Old Survey No. 94 and the New No. 126 and which said land is bounded as follows that is to say on or towards the East partly by the land belonging to K. B. Dastoor Hoshang Jamaspa and partly by the road leading from Bund garden to the City on or towards the West by the land belonging to Narayan bin Raghoji Dhala on or towards the North by the property of Hari Rowji and on or towards the South by the road leading to Record Hall and beyond that by the property of Desai Hari Prasad together with bungalow and buildings standing thereon.

THE SECOND SCHEDULE.

First :—All that piece of land situate on the Wodehouse Road Estate of the Improvement Trust at the junction of the Wodchouse Road and Colaba Causeway on the Esplanade in the City and Island and Sub-Registration District of Bombay which has been computed to contain an area of three thousand four hundred and seventy-six square yards or thereabouts and which is bounded on the West by Wodehouse Road aforesaid on the East by Colaba Causeway on the North by the junction of the said two roads and

Statement to be published by Banking and certain other Companies.

SECTIONS.

136. Certain companies to publish statement in schedule.

Investigation by the Registrar.

137. Power of registrar to call for information or explanation.

Inspection and Audit.

138. Investigation of affairs of company by inspectors.
139. Application for inspection to be supported by evidence.
140. Inspection of books and examination of officers.
141. Results of examination how dealt with.
141-A. Institution of prosecutions.
142. Power of company to appoint inspectors.
143. Report of inspectors to be evidence.
144. Qualifications and appointment of auditors.
145. Powers and duties of auditors.
146. Rights of preference shareholders, etc., as to receipt and inspection of reports, etc.

Carrying on business with less than the legal minimum of members.

147. Liability for carrying on business with fewer than seven or, in the case of a private company, two members.

Service and Authentication of Documents.

148. Service of documents on company.
149. Service of documents on registrar.
150. Authentication of documents.

Tables, Forms and Rules as to prescribed matters.

151. Application and alteration of tables and forms, and power to make rules as to prescribed matters.

Arbitration and Compromise.

152. Power for companies to refer matters to arbitration.
153. Power to compromise with creditors and members.
153-A. Provisions for facilitating arrangements and compromises.
153-B. Power to acquire shares of shareholders dissenting from schemes or contract approved by majority.

Conversion of private company into public company.

154. Conversion of private into public company.

White Phosphorus Matches Prohibition. [1913 : Act V.
 a total area of 2,452 square yards or thereabouts and bounded on the North-East by Plots Nos. 6-7 on the South-East by a 40 Feet Road on the South-West by Khattoo Road and on the North-West by Cuffe Parade which said piece of land is known as Plots Nos. 5-6 on the Colaba Reclamation and which said premises are assessed by the Collector of Land Revenue under New Survey No. 9765 and are assessed by the Municipality under Ward No. 225 (10) Street No. 12 I together with all buildings and premises now erected and built thereon.

THE WHITE PHOSPHORUS MATCHES PROHIBITION ACT, 1913.

ACT No. V OF 1913.¹

[7th March, 1913.]

An Act to prohibit the importation, manufacture and sale of matches made with white phosphorus.

WHEREAS it is expedient to prohibit the importation, manufacture and sale of matches made with white phosphorus ; It is hereby enacted as follows :—

1. (1) This Act may be called the White Phosphorus Matches Prohibition Act, 1913.

(2) It extends to the whole of British India ; and

(3) It shall come into force on the first day of July, 1913, with the exception of section 6, which shall come into force on the first day of July, 1914.

2. In this Act, "white phosphorus" means the substance commonly known as white or yellow phosphorus.

3. [Prohibition of importation by addition to section 18, Act VIII of 1878.]
Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

4. (1) No person shall use white phosphorus in the manufacture of matches.

(2) Any person who uses, or permits the use by any person under his control, of white phosphorus in the manufacture of matches, shall be punishable with fine which may extend to two hundred rupees.

5. (1) Every person who manufactures matches shall allow an Inspector of Factories appointed under the Indian Factories Act, 1911², at any time to take for analysis sufficient samples of any material in use or mixed for use, in such manufacture :

¹ For Statement of Objects and Reasons, see Gazette of India, 1912, Pt. V, p. 220 ; for Report of Select Committee, see *ibid*, 1913, Pt. V, p. 35 ; and for Proceedings in Council, see *ibid*, 1913, Pt. VI, pp. 16, 64 and 146.

This Act has been declared to be in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3 ; in the Sonthal Parganas by Notification under s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872), see B. & O. Gazette, 1914, Pt. II, p. 413.

² See now the Indian Factories Act, 1934 (25 of 1934).

Ordinary powers of Court.

SECTIONS.

- 184. Settlement of list of contributories and application of assets.
- 185. Power to require delivery of property.
- 186. Power to order payment of debts by contributory.
- 187. Power of Court to make calls.
- 188. Power to order payment into bank.
- 189. Regulation of account with Court.
- 190. Order on contributory conclusive evidence.
- 191. Power to exclude creditors not proving in time.
- 192. Adjustment of rights of contributories.
- 193. Power to order costs.
- 194. Dissolution of company.

Extraordinary Powers of Court.

- 195. Power to summon persons suspected of having property of company.
- 196. Power to order public examination of promoters, directors, etc.
- 197. Power to arrest absconding contributory.
- 198. Saving of other proceedings.

Enforcement of and Appeal from Orders.

- 199. Power to enforce orders.
- 200. Order made in any Court to be enforced by other Courts.
- 201. Mode of dealing with orders to be enforced by other Courts.
- 202. Appeals from orders.

Voluntary winding up.

- 203. Circumstances in which company may be wound up voluntarily.
- 204. Commencement of voluntary winding up.
- 205. Effect of voluntary winding up on status of company.
- 206. Notice of resolution to wind up voluntarily.
- 207. Declaration of solvency.

Members' voluntary winding up.

- 208. Provisions applicable to a member's voluntary winding up.
- 208-A. Power of company to appoint and fix remuneration of liquidators.
- 208-B. Power to fill vacancy in office of liquidator.
- 208-C. Power of liquidator to accept shares, etc., as consideration for sale of property of company.
- 208-D. Duty of liquidator to call general meeting at end of each year.
- 208-E. Final meeting and dissolution.

SECTIONS.

- 231. Fraudulent preference.
- 232. Avoidance of certain attachments, executions, etc.
- 233. Effect of floating charge.
- 234. General scheme of liquidation may be sanctioned.
- 235. Power of Court to assess damages against delinquent directors, etc.
- 236. Penalty for falsification of books.
- 237. Prosecution of delinquent directors.
- 238. Penalty for false evidence.
- 238-A. Penal provisions.
- 239. Meetings to ascertain wishes of creditors or contributories.
- 240. Documents of company to be evidence.
- 241. Inspection of documents.
- 242. Disposal of documents of company.
- 243. Power of Court to declare dissolution of company void.
- 244. Information as to pending liquidations.
- 244-A. Payments of liquidator into bank.
- 245. Court or person before whom affidavit may be sworn.

Rules.

- 246. Power of High Court to make rules.

Removal of defunct Companies from Register.

- 247. Registrar may strike defunct company off register.

PART VI.

REGISTRATION OFFICE AND FEES.

- 248. Registration offices.
- 249. Fees.
- 249-A. Enforcing submission of returns and documents to Registrar.

PART VII.

APPLICATION OF ACT TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACTS.

- 250. Application of Act to companies formed under former Companies Acts.
- 251. Application of Act to companies registered but not formed under former Companies Acts.
- 252. Mode of transferring.

Meetings and Proceedings.

SECTIONS.

- 76. Annual general meeting.
- 77. Statutory meeting of company.
- 78. Calling of extraordinary general meeting on requisition.
- 79. Provisions as to meetings and votes.
- 80. Representation of companies at meetings of other companies of which they are members.
- 81. Extraordinary and special resolutions.
- 82. Registration and copies of special and extraordinary resolutions.
- 83. Minutes of proceedings of general meetings and of its directors.

Directors.

- 83-A. Directors obligatory.
- 83-B. Appointment of directors.
- 84. Restrictions on appointment or advertisement of director.
- 85. Qualification of director.
- 86. Validity of acts of directors.
- 86-A. Ineligibility of bankrupt to act as director.
- 86-B. Assignment of office by directors.
- 86-C. Avoidance of provisions relieving liability of directors.
- 86-D. Loans of directors.
- 86-E. Director not to hold office of profit.
- 86-F. Sanction of directors necessary for certain contracts.
- 86-G. Removal of directors.
- 86-H. Restrictions on powers of directors.
- 86-I. Vacation of office of director.
- 87. Register of directors, managers and managing agents.

Managing Agents.

- 87-A. Duration of appointment of managing agent.
- 87-B. Conditions applicable to managing agents.
- 87-C. Remuneration of managing agent.
- 87-D. Loans to managing agents.
- 87-E. Loans to or by companies under the same management.
- 87-F. Purchase by company of shares of company under same managing agent.
- 87-G. Restriction on managing agent's powers of management.
- 87-H. Managing agent not to engage in business competing with the business of managed company.
- 87-I. Limit on number of directors appointed by managing agent.

SECTIONS.

- 277-C. Restriction on canvassing for sale of shares.
- 277-D. Registration of charges.
- 277-E. Notice of appointment of receiver.

PART X-A.

BANKING COMPANIES.

- 277-F. Definition of banking company.
- 277-G. Limitation of activities of banking company.
- 277-H. Banking company not to employ managing agent.
- 277-I. Restriction on commencement of business by banking company.
- 277-J. Prohibition of charge on unpaid capital.
- 277-K. Reserve fund.
- 277-L. Cash reserve.
- 277-M. Restriction on nature of subsidiary companies.
- 277-N. Power of Court to stay proceedings.

PART XI.

SUPPLEMENTAL.

Legal proceedings, offences, etc.

- 278. Cognizance of offences.
- 279. Applications of fines.
- 280. Power to require limited company to give security for costs.
- 281. Power of Court to grant relief in certain cases.
- 282. Penalty for false statement.
- 282-A. Penalty for wrongful withholding of property.
- 282-B. Penalty for misapplication of securities by employers.
- 283. Penalty for improper use of word "Limited".
- 284. Saving of pending proceedings for winding up.
- 285. Saving of document.
- 286. Former registration offices, registers and registrars continued.
- 287. Savings for Indian Life Assurance Companies Act, 1912, and Provident Insurance Societies Act, 1912.
- 288. Construction of "registrar of joint-stock companies" in Act XXI of 1860.
- 289. Act not to apply to Banks of Bengal, Madras or Bombay.
- 289-A. Application of Act to non-trading companies with purely Provincial objects.
- 290. Repeal of Acts and Savings.

Information as to Mortgages, Charges, etc.

SECTIONS.

- 109. Certain mortgages and charges to be void if not registered.
- 109-A. Registration of charges on properties acquired subject to charge.
- 110. Particulars in case of series of debentures entitling holders *pari passu*.
- 111. Particulars in case of commission, etc., on debentures.
- 112. Register of mortgages and charges.
- 113. Index to register of mortgages and charges.
- 114. Certificate of registration.
- 115. Endorsement of certificate of registration on debenture or certificate of debenture stock.
- 116. Duty of company and right of interested party as regards registration.
- 117. Copy of instrument creating mortgage or charge to be kept at registered office.
- 118. Registration of appointment of receiver.
- 119. Filing of accounts of receivers.
- 120. Rectification of register of mortgages.
- 121. Registration or satisfaction of mortgages and charges.
- 122. Penalties.
- 123. Company's register of mortgages.
- 124. Right to inspect copies of instruments creating mortgages and charges and company's register of mortgages.
- 125. Right to inspect the register of debenture-holders and to have copies of trust-deed.

Debentures and Floating Charges.

- 126. Perpetual debentures.
- 127. Power to re-issue redeemed debentures in certain cases.
- 128. Specific performance of contract to subscribe for debentures.
- 129. Payments of certain debts out of assets subject to floating charge in priority to claims under the charge.

Statements, Books and Accounts.

- 130. Books to be kept by company and penalty for not keeping proper books.
- 131. Annual balance-sheet.
- 131-A. Directors' Report.
- 132. Contents of balance-sheet.
- 132-A. Balance-sheet to include particulars as to subsidiary companies.
- 133. Authentication of balance-sheet.
- 134. Copy of balance-sheet to be forwarded to the registrar.
- 135. Right of member of company to copies of the balance-sheet and the auditor's report.

(Part I.—Preliminary.)

Act No. XIX of 1857 or in ¹Table A in the First Schedule annexed to the Indian Companies Act, 1882, or in Table A in the First Schedule annexed to this Act :

(2) "Company" means a company formed and registered under this Act or an existing company :

(3) "the Court" means the Court having jurisdiction under this Act :

(4) "debenture" includes debenture stock :

(5) "director" includes any person occupying the position of a director by whatever name called :

(6) "District Court" means the principal Civil Court of original jurisdiction in a district, but does not include a High Court in the exercise of its ordinary original civil jurisdiction :

(7) "existing company" means a company formed and registered under the ²Indian Companies Act, 1866, or under any Act or Acts repealed thereby, or under the Indian Companies Act, 1882 :

(8) "Insurance company" means a company that carries on the business of insurance either solely or in common with any other business or businesses :

³[(9) "manager" means a person who, subject to the control and direction of the directors has the management of the whole affairs of a company, and includes a director or any other person occupying the position of a manager by whatever name called and whether under a contract of service or not :

(9A) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement and includes any person, firm or company occupying such position by whatever name called :

Explanation.—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act.]

(10) "memorandum" means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Act :

¹ See Appendix II, p. 444, *infra*.

² Rep. by the Indian Companies Act, 1882 (6 of 1882), which was repealed by the Indian Companies Act, 1882 (19 of 1882).

³ Cls. (9) and (9A) subs. by the Indian Companies (Amendment) Act, 1913 (10 of 1913) for original cl. (9).

PART V.

WINDING UP.

Preliminary.

SECTIONS.

155. Mode of winding up.

Contributories.

156. Liability as contributories of present and past members.
 157. Liability of directors whose liability is unlimited.
 158. Meaning of "contributory".
 159. Nature of liability of contributory.
 160. Contributories in case of death of member.
 161. Contributories in case of insolvency of member.

Winding up by Court.

162. Circumstances in which company may be wound up by Court.
 163. Company when deemed unable to pay its debts.
 164. Winding up may be referred to District Court.
 165. Transfer of winding up from one District Court to another.
 166. Provisions as to applications for winding up.
 167. Effect of winding up order.
 168. Commencement of winding up by Court.
 169. Court may grant injunction.
 170. Powers of Court on hearing petition.
 171. Suits stayed on winding up order.
 171-A. Vacancy in the office of liquidator.
 172. Copy of winding up order to be filed with registrar.
 173. Power of Court to stay winding up.
 174. Court may have regard to wishes of creditors or contributories.

Official Liquidators.

175. Appointment of official liquidator.
 176. Resignations, removals, filling up vacancies and compensation.
 177. Official liquidator.
 177-A. Statement of affairs to be made to the liquidator.
 177-B. Statement by liquidator.
 178. Custody of company's property.
 178-A. Committee of Inspection in compulsory winding up.
 179. Powers of official liquidator.
 180. Discretion of official liquidator.
 181. Provision for legal assistance to official liquidator.
 182. Liquidator to keep books containing proceedings of meetings and
 to submit account of his receipts to court.
 183. Exercise and control of liquidator's powers.

(Part I.—Preliminary.)

entitle the company to more than fifty per cent. of the voting power in that other company, or

- (b) the company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company,

that other company shall be deemed to be a subsidiary company within the meaning of this Act, and the expression "subsidiary company" in this Act means a company in the case of which the conditions of this sub-section are satisfied and includes a subsidiary company of such company:

Provided that where a company the ordinary business of which includes the lending of money holds shares in another company as security only, no account shall, for the purpose of determining under this section whether that other company is a subsidiary company, be taken of the shares so held.]

¹[2A. Notwithstanding anything in the last preceding section, a company which was ²immediately before the separation of Burma and Aden from India a company as defined by the said section, being a company the registered office whereof is in Burma or Aden,—

Provision
as to
companies
registered
Burma or
Aden bef
separatio
from Ind

- (a) shall be deemed for the purposes of this Act to be a company registered and incorporated outside British India, and
- (b) shall not, unless the subject matter or context so requires, be included in the expressions "company", "existing company", "public company", and "private company":

Provided that—

- (i) for the purposes of section 277 of this Act such a company shall, for a period of six months from the separation, be deemed to be a company incorporated and registered in British India ;
- (ii) the separation of Burma and Aden from India shall not render valid any mortgage or charge which, immediately before that date, was void against the liquidator or creditors of such a company.]

3. (1) The Court having jurisdiction under this Act shall be the High Court having jurisdiction in the place at which the registered office of the company is situate :

Jurisdiction
of the
Courts.

Provided that the ³[Central Government] may, by notification in the ⁴[Official Gazette] and subject to such restrictions and conditions as it thinks fit, empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court, and in that case such District Court shall, as regards the jurisdiction so conferred, be the Court in respect of all companies having their registered offices in the district.

¹ Ins. by the A. O.

² I.e., immediately before the 1st April, 1937.

³ Subs. by the A. O. for "L. G."

⁴ Subs. by the A. O. for "local official Gazette".

(Part II.—Constitution and Incorporation.)

11. (1) A company shall not be registered by a name identical with that by which a company in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the registrar requires. Name of company and change of name.

(2) If a company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a company in existence is previously registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned company may, with the sanction of the registrar, change its name.

¹[(3) Except with the previous consent in writing of the ²[Central Government], no company shall be registered by a name which—

(a) contains any of the following words, namely, "Crown", "Emperor", "Empire", "Empress", "Federal", "Imperial", "King", "Queen", "Royal", "State", "Reserve Bank", "Bank of Bengal", "Bank of Madras", "Bank of Bombay", or any word which suggests or is calculated to suggest the patronage of His Majesty or of any member of the Royal Family or any connection with His Majesty's Government or any department thereof; or

(b) contains the word "Municipal" or "Chartered" or any word which suggests or is calculated to suggest connection with any municipality or other local authority or with any society or body incorporated by Royal Charter :

Provided that nothing in this sub-section shall apply to companies registered before the commencement of this Act.]

(4) Any company may, by special resolution and subject to the approval of the ³[Central Government] signified in writing, * * * * * change its name.

(5) Where a company changes its name, the registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case. On the issue of such a certificate, the change of name shall be complete.

(6) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company; and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

12. (1) Subject to the provisions of this Act, a company may, by special resolution, alter the provisions of its memorandum so as to change the place Alteration of memo-|randum.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (23 of 1936), s. 6 for the original sub-section.

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "L. G."

⁴ The words "under the hand of one of the Secretaries to such Govt." rep. by the A. O.

(Part I.—Preliminary.)

THE FIRST SCHEDULE.—

TABLE A.—Regulations for management of a company limited by shares.

TABLE B.—Table of fees to be paid to the Registrar.

THE SECOND SCHEDULE.—Statement in lieu of prospectus.

THE THIRD SCHEDULE.—Forms.

THE FOURTH SCHEDULE.—Enactments repealed.

APPENDIX I.

APPENDIX II.

ACT NO. VII OF 1913.¹

[27th March, 1913.]

An Act to consolidate and amend the law relating to Trading Companies and other Associations.

WHEREAS it is expedient to consolidate and amend the law relating to Trading Companies and other Associations ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Indian Companies Act, 1913.

(2) It shall come into force on the first day of April 1914 ; and

(3) It extends to the whole of British India including British Baluchistan and the Santhal Parganas.

²[2. (1)] In this Act, unless there is anything repugnant in the subject or context,—

(1) “ articles ” means the articles of association of a company as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in ³Table B in the Schedule annexed to

¹ For Statement of Objects and Reasons, see Gazette of India, 1912, Pt. V, p. 151 ; for report of Select Committee, see *ibid.*, 1913, Pt. V, p. 45 ; and for Proceedings in Council, see *ibid.*, 1912, Pt. VI, p. 586, and *ibid.*, 1913, Pt. VI, pp. 6, 106 and 300.

The provisions of this Act do not apply to registered Co-operative Societies in Madras, Bihar and Orissa : see the Madras Co-operative Societies Act, 1932 (Mad. 6 of 1932), s. 61, and the B. & O. Co-operative Societies Act, 1935 (B. & O. 6 of 1935), s. 3.

² The original s. 2 was re-numbered as sub-section (1) of that section by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 2.

³ See Appendix I, p. 434, *infra*.

(Part II.—Constitution and Incorporation.)

15. (1) A certified copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within three months from the date of the order, be filed by the company with the registrar, and he shall register the same, and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum so altered shall be the memorandum of the company.

Procedure on confirmation of the alteration.

(2) Where the alteration involves a transfer of the registered office from one province to another, a certified copy of the order confirming such change shall be filed by the company with the registrar in each of such provinces, and each of such registrars shall register the same, and shall certify under his hand the registration thereof, and the registrar for the province from which such office is transferred shall send to the registrar for the other province all documents relating to the company registered or filed in his office.

(3) The Court may by order at any time extend the time for the filing of documents with the registrar under this section for such period as the Court thinks proper.

16. No such alteration shall have any operation until registration thereof has been duly effected in accordance with the provisions of section 15, and if such registration is not effected within three months next after the date of the order of the Court confirming the alteration, or within such further time as may be allowed by the Court in accordance with the provisions of section 15, such alteration and order and all proceedings connected therewith shall, at the expiration of such period of three months or such further time, as the case may be, become absolutely null and void.

Effect of failure to register within three months.

Provided that the Court may, on sufficient cause shown, revive the order on application made within a further period of one month.

Articles of Association.

17. (1) There may, in the case of a company limited by shares, and there shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

Registration of articles.

(2) Articles of association may adopt all or any of the regulations contained in Table A in the First Schedule, ¹ and shall in any event be deemed to contain regulations identical with or to the same effect as regulation 56, regulation 66, regulation 71, regulations 78, 79, 80, 81 and 82, regulation 95, regulation 97, regulation 105, regulation 107 and regulations 112, 113, 114, 115 and 116 contained in that Table :

Provided that regulation 78 shall not be deemed to be included in the articles of any private company except a private company which is the subsidiary company of a public company :

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 8.

(Part II.—Constitution and Incorporation.)

and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, it in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company :

Provided that this section shall not apply in any case where the member agrees in writing either before or after the alteration is made to be bound thereby].

General Provisions.

21. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member and contained a covenant on the part of each member, his heirs, and legal representatives, to observe all the provisions of the memorandum and of the articles, subject to the provisions of this Act.

Effect of memorandum and articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company.

22. The memorandum and the articles (if any) shall be filed with the registrar for the province in which the registered office of the company is situated by the memorandum to be situate, and he shall retain and register them.

Registration of memorandum and articles.

23. (1) On the registration of the memorandum of a company, the registrar shall certify under his hand that the company is incorporated, and in the case of a limited company that the company is limited.

Effect of registration.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

24. (1) A certificate of incorporation given by the registrar in respect of any association be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorised to be registered and duly registered under this Act.

Conclusiveness of certificate of incorporation.

(2) A declaration by an advocate, attorney or pleader entitled to appear before a High Court who is engaged in the formation of a company, or by a person named in the articles as a director, manager or secretary of the company, of compliance with all or any of the said requirements shall be filed with the registrar, and the registrar may accept such a declaration as sufficient evidence of compliance.

(Part I.—Preliminary. Part II.—Constitution and Incorporation.)

(2) For the purposes of jurisdiction to wind up companies, the expression “registered office” means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

(3) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong Court.

PART II.

CONSTITUTION AND INCORPORATION.

4. (1) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance of an Act of Parliament or some other ¹[Indian law] or of Royal Charter or Letters Patent.

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of an Act of Parliament or some other ¹[Indian law] or of Royal Charter or Letters Patent.

²[(3) This section shall not apply to a joint family carrying on joint family trade or business and where two or more such joint families form a partnership, in computing the number of persons for the purposes of this section, minor members of such families shall be excluded.]

(4) Every member of a company, association or partnership carrying on business in contravention of this section shall be personally liable for all liabilities incurred in such business.

(5) Any person who is a member of a company, association or partnership formed in contravention of this section shall be punishable with fine not exceeding one thousand rupees.]

Memorandum of Association.

5. Any seven or more persons (or, where the company to be formed will be a private company, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration,

¹ Subs. by the A. O. for “Act of the G. G. in C.”

² Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 3.

(Part II.—Constitution and Incorporation. Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

the association shall cease to enjoy the exemptions and privileges granted by this section :

Provided that, before a license is so revoked, the ¹[Central Government] shall give to the association notice in writing of its intention, and shall afford the association an opportunity of submitting a representation in opposition to the revocation.

Companies limited by Guarantee.

27. (1) In the case of a company limited by guarantee and not having a share capital, and registered after the commencement of this Act, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void. Provision as to companies limited by guarantee.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of any company limited by guarantee and registered after the commencement of this Act, purporting to divide the undertaking of the company into shares or interests, shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

PART III.

SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS.

Distribution of Share Capital.

28. (1) The shares or other interest of any member in a company shall be moveable property, transferable in manner provided by the articles of the company. Nature of shares.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

29. A certificate, under the common seal of the company, specifying any shares or stock held by any member, shall be *prima facie* evidence of the title of the member to the shares or stock therein specified. Certificate of shares or stock.

30. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members. Definition of "member".

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

¹ Subs. by the A. O. for "L. G."

(Part II.—Constitution and Incorporation.)

ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount :

(2) if the company has a share capital—

- (i) the memorandum shall also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount ;
- (ii) no subscriber of the memorandum shall take less than one share ;
- (iii) each subscriber shall write opposite to his name the number of shares he takes.

8. In the case of an unlimited company—

(1) the memorandum shall state—

- (i) the name of the company ;
- (ii) the province in which the registered office of the company is to be situate ;
- (iii) the objects of the company, ¹[and, except in the case of trading corporations, the territories to which they extend] :

(2) if the company has a share capital—

- (i) no subscriber of the memorandum shall take less than one share ;
- (ii) each subscriber shall write opposite to his name the number of shares he takes.

²[9. The memorandum shall—

- (a) be printed,
- (b) be divided into paragraphs numbered consecutively, and
- (c) be signed by each subscriber (who shall add his address and description) in the presence of at least one witness who shall attest the signature.]

10. A company shall not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Act :

³[Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature incidental or subsidiary to the main objects of the company, shall not be deemed to be such condition.]

¹ Ins. by the A. O.

² Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 4, for the original

s. 9.

³ Ins. by s. 5, *ibid.*

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars :—

- (a) the amount of the share capital of the company, and the number of the shares into which it is divided ;
- (b) the number of shares taken from the commencement of the company up to the date of the return ;
- (c) the amount called up on each share ;
- (d) the total amount of calls received ;
- (e) the total amount of calls unpaid ;
- (f) the total amount of the sums (if any) paid by way of commission in respect of any shares or debentures, or allowed by way of discount ¹[in respect of any shares or debentures], since the date of the last return ²[or so much thereof as has not been written off at the date of the return] ;
- (g) the total number of shares forfeited ;
- (h) the total amount of shares or stock for which share-warrants are outstanding at the date of the return ;
- (i) the total amount of share-warrants issued and surrendered respectively since the date of the last return ;
- (k) the number of shares or amount of stock comprised in each share-warrant ;
- (l) the names and addresses of the persons who at the date of the return are the directors of the company and of the persons (if any) who at the said date are ³[the managers or managing agents of the company, and the changes in the personnel of the directors, managers and managing agents since the last return together with the dates on which they took place] ; and
- (m) the total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act.

(3) The above list and summary shall be contained in a separate part of the register of members, and shall be completed within ⁴[twenty-one days] after the day of the first or only ordinary general meeting in the year, and the company shall forthwith file with the registrar a copy signed by a director or by the manager or the secretary of the company, together with a certificate from such director, manager or secretary that the list and summary state the facts as they stood on the day aforesaid.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 15, for "in respect of any debentures".

² Ins. by s. 15, *ibid.*

³ Subs. by s. 15, *ibid.*, for "the managers of the company".

⁴ Subs. by s. 15, *ibid.*, for "seven days".

(Part II.—Constitution and Incorporation.)

of the registered office from one province to another, or with respect to the objects of the company, so far as may be required to enable it—

- (a) to carry on its business more economically or more efficiently ; or
- (b) to attain its main purpose by new or improved means ; or
- (c) to enlarge or change the local area of its operations ; or
- (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company ; or
- (e) to restrict or abandon any of the objects specified in the memorandum ; ¹[or
- (f) to sell or dispose of the whole or any part of the undertaking of the company ; or
- (g) to amalgamate with any other company or body of persons].

(2) The alteration shall not take effect until and except in so far as it is confirmed by the Court on petition.

(3) Before confirming the alteration, the Court must be satisfied—

- (a) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration ; and
- (b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has been determined, or has been secured to the satisfaction of the Court :

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

13. The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

14. The Court shall, in exercising its discretion under sections 12 and 13, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members ; and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement :

Provided that no part of the capital of the company may be expended in any such purchase.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 7.

(Part III. Share Capital, Registration of Unpaid-up Promises to Capital, and Unlimited Liability of Directors.)

(4) If a company refuses to register the transfer of any share or debenture, the company shall, within two months from the date on which the instrument of transfer was lodged with the Company, send to the transferee and the transferor notice of the refusal.

(5) If default is made in complying with subsection (4) of this section, the company and every director, who at the time of the default is a director of the company, who is knowingly a party to the default, shall be liable for a fine not exceeding fifty rupees for every day during which the default continues.

(6) Nothing in sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

(Part II.—Constitution and Incorporation.)

Provided further that regulation 107 shall be deemed to require that a statement of the reasons why of the whole amount of any item of expenditure which may in fairness be distributed over several years, only a portion thereof is charged against the income of the year, shall be shown in the profit and loss account, unless the company in general meeting shall determine otherwise.]

(3) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has a share capital, shall state the amount of share capital with which the company proposes to be registered.

(4) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles shall state the number of members with which the company proposes to be registered, for the purpose of enabling the registrar to determine the fees payable on registration.

18. In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in the First Schedule, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

19. Articles shall—

- (a) be printed ;
- (b) be divided into paragraphs numbered consecutively ; and
- (c) be signed by each subscriber of the memorandum ¹[(who shall add his address and description)] of association in the presence of at least one witness who must attest the signature.

20. (1) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles ; and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

(2) The power of altering articles under this section shall, in the case of any company formed and registered under Act No. XIX of 1857 and ²Act No. VII of 1860 or either of them, extend to altering any provisions in Table B³ annexed to Act XIX of 1857, and shall also, in the case of an unlimited company formed and registered under the said Acts or either of them, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

⁴[20A. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member if

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 9.

² Rep. by the Indian Companies Act, 1866 (10 of 1866).

³ See Appendix I to this Act, p. 434, *infra*.

⁴ Ins. by s. 10 of Act 22 of 1936.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

(2) The company shall, within one month from the date of the opening of any British register, file with the registrar notice of the situation of the office where such register is kept and, in the event of any change in the situation of such office or of its discontinuance, shall within one month from the date of such change or discontinuance, as the case may be, file notice of such change or discontinuance.

(3) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

42. (1) A British register shall be deemed to be part of the company's register of members (in this section called the principal register). Regulations as to British register.

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the locality wherein the British register is kept.

(3) The company shall transmit to its registered office in India a copy of every entry in its British register as soon as may be after the entry is made ; and shall cause to be kept at such office, duly entered up from time to time, a duplicate of its British register, and the duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a British register shall, during the continuance of that registration, be registered in any other register.

(5) The company may discontinue to keep any British register, and thereupon all entries in that register shall be transferred to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such regulations as it may think fit respecting the keeping of a British register.

¹[42A. (1) The provisions of sections 41 and 42 shall apply in relation to Burma as they apply in relation to the United Kingdom. Application of sections 41 & 42 to Burma.

(2) In the application of the said provisions to Burma, references to a British register shall be construed as references to a Burma register.]

43. ²[(1)] A company limited by shares, if so authorised by its articles, may, with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant, in this Act termed a share-warrant. Issue of share-warrants to bearer.

¹ Ins. by the A. O.

² The original s. 43 was re-numbered as sub-section (1) of that section by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 20.

(Part II.—Constitution and Incorporation.)

25. (1) Every company shall send to every member, ¹[at his request and within fourteen days thereof] on payment of one rupee or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).

(2) If a company makes default in complying with the requirements of this section, it shall be liable for each offence to a fine not exceeding ten rupees.

²[25A. (1) Where an alteration is made in the memorandum or articles of a company, every copy of the memorandum or articles issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum or articles which are not in accordance with the alteration, it shall be liable to a fine not exceeding ten rupees for each copy so issued and every officer of the company who is knowingly and wilfully in default shall be liable to the like penalty.]

Associations not for Profit.

26. (1) Where it is proved to the satisfaction of the ³[Central Government] that an association capable of being formed as a limited company has been or is about to be formed for promoting commerce, art, science, ⁴[religion], charity, or any other useful object, and applies or intends to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the ³[Central Government] may, by license under the hand of one of its Secretaries, direct that the association be registered as a company with limited liability, without the addition of the word " Limited " to its name, and the association may be registered accordingly.

(2) A license by the ³[Central Government] under this section may be granted on such conditions and subject to such regulations as the ³[Central Government] thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the ³[Central Government] so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word " Limited " as any part of its name, and of publishing its name, ⁵[and of sending lists of members to the registrar].

(4) A license under this section may at any time be revoked by the ³[Central Government], and upon revocation the registrar shall enter the word " Limited " at the end of the name of the association upon the register, and

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 11, for " at his request, and ".

² Ins. by s. 12, *ibid.*

³ Subs. by the A. O. for " L. G. "

⁴ Ins. by the Indian Companies (Amendment) Act, 1926 (33 of 1926), s. 2.

⁵ Subs. by Act 22 of 1936, s. 13, for " and of filing lists of members and directors and managers with the registrar ".

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

(2) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him although no part of that amount has been called up ;

(3) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

50. (1) A company limited by shares, if so authorised by its articles, may alter the conditions of its memorandum as follows (that is to say), it may—

Power of company limited by shares to alter its share capital.

(a) increase its share capital by the issue of new shares of such amount as it thinks expedient ;

(b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares ;

(c) convert all or any of its paid-up shares into stock and re-convert that stock into paid-up shares of any denomination ;

(d) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived ;

(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section ¹ * * * * must be exercised ²[by the company in general meeting].

³[(3)] A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

³[(4) The company shall file with the registrar notice of the exercise of any power referred to in clause (d) or clause (e) of sub-section (1) within fifteen days from the exercise thereof.]

51. (1) Where a company having a share capital has consolidated and divided its share capital into shares of larger amount than its existing shares or converted any of its shares into stock, or re-converted stock into shares, it shall within fifteen days of the consolidation and division, conversion or re-conversion, file notice with the registrar of the same, specifying the share capital consolidated and divided, or converted, or the stock re-converted.

Notice to registrar of consolidation, conversion or re-conversion of share capital.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day

¹ The words " with respect to sub-division of shares " rep. by the Indian Companies (Amendment) Act 1936 (22 of 1936), s. 21.

² Subs. by s. 21, *ibid.*, for " by special resolution ".

³ Original sub-sections (3) and (4) were omitted, sub-section (5) was added, and sub-section (4) was added, by s. 21, *ibid.*

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

31. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars :—

- (i) the names and addresses, and the occupations, if any, of the members, and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member ;
- (ii) the date at which each person was entered in the register as a member ;
- (iii) the date at which any person ceased to be a member.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues ; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

¹[31A. (1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall within fourteen days after the date on which any alteration is made in the register of members make any necessary alteration in the index.

(2) The index, which may be in the form of a card index, shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.

(3) If default is made in complying with this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding fifty rupees.]

32. (1) Every company having a share capital shall ²[within eighteen months from its incorporation and thereafter] once at least in every year make a list of all persons who, on the day of the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or (in the case of the first return) of the incorporation of the company.

(2) The list shall state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or (in the case of the first return) of the incorporation of the company by persons who are still members and persons who have ceased to be members respectively and the dates of registration of the transfers, and shall contain a summary distinguishing

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 14.

² Ins. by s. 15, *ibid*.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

(2) Where an order is made under this section, a certified copy thereof shall be filed with the registrar within twenty-one days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such a copy has been so filed.

Reduction of Share Capital.

¹[54A. (1) No company limited by shares shall have power to buy its own shares or the shares of a public company of which it is a subsidiary company unless the consequent reduction of capital is effected and sanctioned in the manner provided by sections 55 to 66.

Restrictions on purchase by company or loans by company for purchase of its own shares.

(2) No company limited by shares other than a private company, not being a subsidiary company of a public company, shall give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase made or to be made by any person of any shares in the company :

Provided that nothing in this section shall be taken to prohibit, where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business.

(3) If a company acts in contravention of this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding one thousand rupees.

(4) Nothing in this section shall affect the right of a company to redeem any shares issued under section 105B.]

55. ²[(1)] Subject to confirmation by the Court, a company limited by shares, if so authorised by its articles, may by special resolution reduce its share capital in any way, and in particular (without prejudice to the generality of the foregoing power) may—

Reduction of share capital.

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up ; or

(b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets ; or

(c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 24.

² Original sub-section (1) of s. 55 was omitted and sub-sections (2) and (3) were re-numbered as (1) and (2) respectively, by s. 25, *ibid.*

[34. (1) An application for the registration of the transfer of shares in a company may be made either by the transferor or the transferee, provided that where such application is made by the transferor no registration shall in the case of partly paid shares be affected unless the company gives notice of the application to the transferee and subject to the provisions of sub-section (4) the company shall, unless objection is made by the transferee within two weeks from the date of receipt of the notice, enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for registration was made by the transferee.

(2) For the purposes of sub-section (1) notice to the transferee shall be deemed to have been duly given if despatched by prepaid post to the transferee at the address given in the instrument of transfer and shall be deemed to have been delivered in the ordinary course of post.

(3) It shall not be lawful for the company to register a transfer of shares in or debentures of the company unless the proper instrument of transfer duly stamped and executed by the transferor and the transferee has been delivered to the company along with the scrip :

Provided that, where it is proved to the satisfaction of the directors of the company that an instrument of transfer signed by the transferor and transferee has been lost, the company may, if the directors think fit, on an application in writing made by the transferee and bearing the stamp required by an instrument of transfer, register the transfer on such terms as to indemnity as the directors may think fit.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 15.

² The original sub-section (4) was re-numbered as sub-section (5) by s. 15, *ibid.*

³ Subs. by s. 16, *ibid.*, for the original section.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

- (ii) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

60. The Court, if satisfied, with respect to every creditor of the company who under this Act is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has been determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

Order confirming reduction.

61. (1) The registrar on production to him of an order of the Court confirming the reduction of the share capital of a company, and on the filing with him of a certified copy of the order and of a minute (approved by the Court) showing, with respect to the share capital of the company as altered by the order, the amount of the share capital, the number of shares into which it is to be divided and the amount of each share, and the amount (if any) at the date of the registration deemed to be paid up on each share, shall register the order and minute.

Registration of order and minute of reduction.

(2) On the registration, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

62. (1) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein, and shall be embodied in every copy of the memorandum issued after its registration.

Minute to form part of memorandum.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

63. (1) A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount paid, or (as the case may be) the reduced amount, if any, which is to be deemed to have been paid, on the share and the amount of the share as fixed by the minute :

Liability of members in respect of reduced shares.

• Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

continues and the Court may by an order compel an immediate inspection of the register and index or direct that copies required shall be sent to the persons requiring them.]

37. A company may, on giving ¹[seven days' previous] notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole ²[forty-five] days in each year ³[but not exceeding thirty days at a time].

38. (1) If—

(a) the name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members of a company ; or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) The Court may either refuse the application, or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved, and may make such order as to costs as it in its discretion thinks fit.

(3) On any application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand ; and generally may decide any question necessary or expedient to be decided for rectification of the register :

Provided that the Court may direct an issue to be tried in which any question of law may be raised ; and an appeal from the decision on such an issue shall lie in the manner directed by the Code of Civil Procedure, 1908, on the grounds V of 11 mentioned in section 100 of that Code.

39. In the case of a company required by this Act to file a list of its members with the registrar, the Court, when making an order for rectification of the register, shall, by its order, direct notice of the rectification to be filed with the registrar ³[within a fortnight from the date of the completion of the order].

40. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

41. (1) A company having a share capital may, if so authorised by its articles, cause to be kept in the United Kingdom a branch register of members (in this Act called a British register).

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 18.

² Subs. by s. 19, *ibid.*, for " thirty ".

³ Ins. by *ibid.*, s. 19.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors. Part IV.—Management and Administration.)

71. (1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or of any director.

(2) Upon the ¹[passing] of any such special resolution, the provision thereof shall be as valid as if they had been originally contained in the memorandum. 2* * * *

PART IV.

MANAGEMENT AND ADMINISTRATION.

Office and Name.

³[72. (1) A company shall as from the day on which it begins to carry on business, or as from the twenty-eighth day after the date of its incorporation, whichever is the earlier, have a registered office to which all communications and notices may be addressed.

(2) Notice of the situation of the registered office and of any change thereof shall be given within twenty-eight days after the date of the incorporation of the company or of the change, as the case may be, to the registrar who shall record the same.

(3) The inclusion in the annual return of a company of the statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this section.

(4) If a company carries on business without complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which it so carries on business.]

73. Every limited company—

- (a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible and in English characters, and also, if the registered office be situated in a place beyond the local limits of the ordinary original civil jurisdiction of a High Court, in the characters of one of the vernacular languages used in that place ;

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 29, for “confirmation”.

² Certain words in sub-section (2) and sub-section (3) of s. 71 rep. by s. 29, *ibid.*

³ Subs. by s. 30, *ibid.*, for the original section.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

¹[(2) Nothing in this section shall apply to a private company.]

44. A share-warrant shall entitle the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

45. The bearer of a share-warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members ; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share-warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

46. The bearer of a share-warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles, except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

47. (1) On the issue of a share-warrant, the company shall strike out of its register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely :—

- (i) the fact of the issue of the warrant ;
- (ii) a statement of the shares or stock included in the warrant, distinguishing each share by its number ; and
- (iii) the date of the issue of the warrant.

(2) If a company makes default in complying with the requirements of this section it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully continues or permits the default shall be liable to the like penalty.

48. Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Act to be entered in the register of members ; and, on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a member.

49. A company, if so authorised by its articles, may do any one or more of the following things, namely :—

- (1) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares ;

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 20.

“(2) The notice to be given as aforesaid shall include particulars of the classes of shares affected and the conditions (if any) subject to which the new shares are to be issued.]

“(3) If a company makes a default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Regarding
then of share
capital

54. (1) A company limited by shares may, by special resolution contained by an order of the Court, modify the conditions contained in its memorandum so as to reorganize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes :

Provided that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class * * * and every restriction so passed shall bind all shareholders of the class.

The words “or in the case of a special resolution the confirmation” req. by the Indian Companies (Amendment) Act, 1933 (22 of 1933), s. 22.

Sub-section (2) was Ins. and the original sub-section (1) was amended (22 of 1933).

The words “and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed” req. by s. 22, 1933.

(Part IV.—Management and Administration.)

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not proceed within twenty-one days from the date of the requisition being so deposited to cause a meeting to be called, the requisitionists, or a majority of them in value, may themselves call the meeting, but in either case any meeting so called shall be held within three months from the date of the deposit of the requisition.

¹[(4)] Any meeting called under this section by the requisitionists shall be called in the same manner, as nearly as possible, as that in which meetings are to be called by directors.

¹[(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration for their services to such of the directors as were in default.]

²[79. (1) The following provisions shall have effect with respect to meetings of a company other than a private company not being a subsidiary of a public company and the procedure thereat, notwithstanding any provision made in the articles of the company in this behalf :—

Provisions as to meetings and votes.

(a) a meeting of a company other than a meeting for the passing of a special resolution may be called by not less than fourteen days' notice in writing ; but with the consent of all the members entitled to receive notice of some particular meeting that meeting may be convened by such shorter notice and in such manner as those members may think fit ;

(b) notice of the meeting of a company with a statement of the business to be transacted at the meeting shall be served on every member in the manner in which notices are required to be served by Table A and for the purpose of this clause the expression ' Table A ' means that table as for the time being in force ; but the accidental omission to give notice to, or the non-receipt of notice by, any member shall not invalidate the proceedings at any meeting ;

(c) five members present in person or by proxy, or the chairman of the meeting, or any member or members holding not less than one-tenth of the issued capital which carries voting rights shall be entitled to demand a poll : Provided that in the case of a private

¹ Sub-section (4) was omitted, original sub-section (5) was renumbered as (4) and sub-section (5) added by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 33.

² Subs. by s. 34, *ibid.* for the original section.

*Part III—Share Capital, Registration of Unincorporated Company as Limited, and
Unlimited Liability of Directors.)*

during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

Effect of
conversion of
shares into
stock.

52. Where a company having a share capital has converted any of its shares into stock, and filed notice of the conversion with the registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the share capital as is converted into stock : and the register of members of the company, and the list of members to be filed with the registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares hereinafter required for this Act.

Notice of
increase of
share capital
or of
members.

53. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of its members beyond the registered number, it shall file with the registrar, in the case of an increase of share capital, within fifteen days after the passing * * * of the resolution authorising the increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place, notice of the increase of capital or members, and the registrar shall record the increase.

(Part IV.—Management and Administration.)

such order shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.]

80. A company which is a member of another company may, by resolution of the directors, authorise any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Representa-
tion of com-
panies at
meetings of
other com-
panies of
which they
are members.

81. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

Extraordi-
nary and
special re-
solutions.

¹[(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice specifying the intention to propose the resolution as a special resolution has been duly given :

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.]

(3) At any meeting at which an extraordinary resolution ²[or a special resolution is submitted to be passed] a declaration of the chairman on a show of hands that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution ²[or a special resolution is submitted to be passed] a poll may be demanded ^{3*} *

(5) In a case where, if a poll is demanded, it may in accordance with the articles be taken in such manner as the chairman may direct ; it may, if the chairman so directs, be taken at the meeting at which it is demanded.

(6) When a poll is demanded in accordance with this section, in computing the majority on the poll, reference shall be had to the number of votes to which each member is entitled by the articles of the company, ⁴[or under this Act.]

(7) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 35, for the original sub-section.

² Subs. by s. 35, *ibid.*, for the words "is submitted to be passed or a special resolution is submitted to be passed or confirmed".

³ Certain words rep. by s. 35, *ibid.*

⁴ Ins. by s. 35, *ibid.*

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

¹[(2)] A special resolution under this section is in this Act called a resolution for reducing share capital.

56. Where a company has passed ²* a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

57. On and from the ³[passing] by a company of a resolution for reducing share capital, or where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then on and from ⁴[the making of the order confirming the reduction], the company shall add to its name, until such date as the Court may fix, the words "and reduced" as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company :

Provided that, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced".

58. (1) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital, or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

59. Where a creditor entered on the list of creditors whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount (that is to say),—

(i) if the company admits the full amount of his debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim ;

¹ See footnote 2 on pre-page.

² The words "and confirmed" rep. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 26.

³ Subs. by s. 27, *ibid.*, for "confirmation".

⁴ Subs. by s. 27, *ibid.*, for "the presentation of the petition for confirming the reduction".

(Part IV.—Management and Administration.)

than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(5) Any member shall at any time after seven days from the meeting be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any minutes referred to in sub-section (4) at a charge not exceeding six annas for every hundred words.

(6) If any inspection required under sub-section (4) of this section is refused or if any copy required under sub-section (5) of this section is not furnished within the time specified in sub-section (5) the company and every officer of the company who is knowingly and wilfully in default shall be liable in respect of each offence to a fine not exceeding twenty-five rupees and to a further fine to twenty-five rupees for every day during which the default continues.

(7) In the case of any such refusal or default, the Court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.]

¹[*Directors.*

83A. ²[(1) Every company shall have at least three directors.]

Directors

(2) This section shall not apply to a private company ³[except a private company being a subsidiary company of a public company.]

obligator.

83B. ⁴[(1)] In default of and subject to any regulations in the articles of a company other than a private company--

Appointm
of directo

- (i) the subscribers of the memorandum shall be deemed to be the directors of the company until the first directors shall have been appointed ;
- (ii) the directors of the company shall be appointed by the members in general meeting ; and
- (iii) any casual vacancy occurring among the directors may be filled up by the directors, but the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director.]

⁵[(2) Notwithstanding anything contained in the articles of a company other than a private company not less than two-thirds of the whole number of directors shall be persons whose period of office is liable to determination at any time by resolutions of directors in rotation.

¹ The heading and ss. 22A and 22B were inserted by the Indian Companies (Amendment) Act, 1913 (11 of 1913), s. 2.

² Inserted by the Indian Companies (Amendment) Act, 1928 (22 of 1928), s. 22, for the original provision.

³ Ins. by s. 62, 1927.

⁴ The original s. 83B was renumbered as sub-section (1) of that section and sub-section (2) was added by s. 20, 1927.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

proceedings for reduction, or of their nature and effect with respect to his claim not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the Court, to pay the amount of his debt or claim, then—

- (i) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt, or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration; and
- (ii) if the company is wound up, the Court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

64. If any officer of the company wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or if any officer of the company abets any such concealment or misrepresentation as aforesaid, every such officer shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

65. In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to give proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.

66. A company limited by guarantee and registered after the commencement of this Act may, if it has a share capital and is so authorised by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Act.

¹ [*Variation of Shareholders' Rights.*]

¹ [66A. (1) If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum

¹ This heading and s. 66A. were ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 28.

(Part IV.—Management and Administration.)

Provided that nothing herein contained shall apply to a director elected or appointed before the commencement of the Indian Companies (Amendment) Act, 1936, in respect of any office of profit under the company held by him at the commencement of the said Act.

Explanation.—For the purposes of this section the office of managing agent shall not be deemed to be an office of profit under the company.]

[**86F.** Except with the consent of the directors, a director of the company, or the firm of which he is a partner or any partner of such firm, or the private company of which he is a member or director, shall not enter into any contracts for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract or agreement for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.]

Sanction of directors necessary for certain contracts.

[**86G.** (1) The company may by extraordinary resolution remove any director, whose period of office is liable to determination at any time by retirement of directors in rotation, before the expiration of his period of office and may by ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected director. A director so removed shall not be re-appointed a director by the board of directors.]

Removal of directors.

(2) This section shall not apply to directors elected or appointed before the commencement of the Indian Companies (Amendment) Act, 1936.]

[**86H.** The directors of a public company or of a subsidiary company of a public company shall not, except with the consent of the company concerned in general meeting,—

Restriction on powers of directors.

- (a) sell or dispose of the undertaking of the company ;
- (b) remit any debt due by a director.]

[**86I.** (1) The office of a director shall be vacated if—

Vacation of office of Director.

- (a) he fails to obtain within the time specified in sub-section (1) of section 84, or at any time thereafter ceases to hold, the share qualification, if any, necessary for his appointment, or
- (b) he is found to be of unsound mind by a Court of competent jurisdiction, or
- (c) he is adjudged an insolvent, or
- (d) he fails to pay calls made on him in respect of shares held by him within six months from the date of such calls being made, or
- (e) he or any firm of which he is a partner or any private company of which he is a director without the sanction of the company in general meeting accepts or holds any office of profit under the

¹ The Indian Companies Act, 1913, section 84, as amended by the Indian Companies (Amendment) Act, 1927.

² As amended by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 42.

(Part III.—Share Capital, Registration of Unlimited Company as Limited, and Unlimited Liability of Directors.)

the occasion of the original registration of the company ; but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act.

68. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely :—

- (a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the amount by which its capital is so increased shall be capable of being called up except in the event and for the purposes of the company being wound up ;
- (b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Reserve Liability of Limited Company.

69. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Unlimited Liability of Directors.

70. (1) In a limited company the liability of the directors or of any director may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of any director is unlimited, the directors of the company (if any) and the member who proposes a person for election or appointment to the office of director shall add to that proposal a statement that the liability of the person holding that office will be unlimited and the promoters and officers of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director or proposer makes default in adding such a statement, or if any promoter or officer of the company makes default in giving such a notice, he shall be liable to a fine not exceeding one thousand rupees and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

(Part IV.—Management and Administration.)

- (b) shall have its name engraved in legible characters on its seal ;
- (c) shall have its name mentioned in legible English characters in all bill-heads and letter paper and in all notices, advertisements and other official publications of the company, and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels ; invoices, receipts and letters of credit of the company.

74. (1) If a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a fine not exceeding fifty rupees for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed, and every officer of the company, who knowingly and wilfully authorises or permits the default, shall be liable to the like penalty.

(2) If any officer of a limited company, or any person on its behalf, uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraved as aforesaid, or issues or authorises the issue of any bill-head, letter paper, notice, advertisement or other official publication of the company, or signs or authorises to be signed on behalf of the company any bill of exchange, hundi, promissory note, endorsement, cheque or order for money or goods, or issues or authorises to be issued any bill of parcels, invoice, receipt or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a fine not exceeding five hundred rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

75. (1) Where any notice, advertisement or other official publication of a company contains a statement of the amount of the authorised capital of the company, such notice, advertisement or other official publication shall also contain a statement in an equally prominent position and in equally conspicuous characters of the amount of the capital which has been subscribed and the amount paid-up.

(2) Any company which makes default in complying with the requirements of this section and every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding one thousand rupees.

Meetings and Proceedings.

76. (1) A general meeting of every company shall be held within eighteen months from the date of its incorporation and thereafter once at least in every calendar year and not more than fifteen months after the holding of the last preceding general meeting.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 31, for the original section.

(Part IV.—Management and Administration.)

¹[**87H.** A managing agent shall not on his own account engage in any business which is of the same nature as and directly competes with the business carried on by a company under his management or by a subsidiary company of such company.]

Managing agent not to engage in business competing with the business of managed company.

¹[**87I.** Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors.]

Limit on number of directors appointed by managing agent.

Contracts.

88. (1) Contracts on behalf of a company may be made as follows (that is to say) :—

Form of contracts.

(i) any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged ;

(ii) any contract which, if made between private persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to this section shall be effectual in law and shall bind the company and its successors and all other parties thereto, their heirs, or legal representatives, as the case may be.

89. A bill of exchange, hundi or promissory note shall be deemed to have been made, drawn, accepted or endorsed on behalf of a company if made, drawn, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority, express or implied.

Bills of exchange and promissory notes.

90. A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place ²[either in or outside British India] ; and every deed signed by such attorney, on behalf of the company, and under his seal, where sealing is required, shall bind the company, and have the same effect as if it were under its common seal.

Execution of deeds.

91. (1) A company whose objects require or comprise the transaction of business beyond the limits of British India may, if authorised by its articles,

Power for company to have official

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 44.

² Subs. by s. 45, *ibid.*, for " not situate in British India ".

(Part IV.—Management and Administration.)

company if not more than seven members are personally present, one member, and if more than seven members are personally present, two members shall be entitled to demand a poll ;

(d) an instrument appointing a proxy, if in the form set out in regulation 67 of Table A, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instruments by the articles ; and

(e) any shareholder whose name is entered in the register of shareholders of the company shall enjoy the same rights and be subject to the same liabilities as all other shareholders of the same class.

(2) The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf :—

(a) two or more members holding not less than one-tenth of the total share capital paid up or, if the company has not a share capital, not less than five per cent. in number of the members of the company may call a meeting ;

(b) in the case of a private company two members and in the case of any other company five members personally present shall be a quorum ;

(c) any member elected by the members present at a meeting may be chairman thereof ;

(d) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each hundred rupees of stock held by him, and in any other case every member shall have one vote ;

(e) on a poll votes may be given either personally or by proxy ;

(f) the instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under seal or under the hand of an officer or an attorney duly authorised ; and

(g) a proxy must be a member of the company.

(3) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called or to conduct the meeting of the company in manner prescribed by the articles or this Act, the Court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the Court thinks fit, and where any such order is given may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any

(Part IV.—Management and Administration.)

dered by him or by the firm in connection with the promotion or formation of the company ; and

(o) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by, ¹[and the rights in respect of capital and dividends attached to], the several classes of shares respectively ; ¹[and]

¹[(p) where the articles of the company impose any restrictions upon the members of the company in respect of the right to attend, speak or vote at meetings of the company or of the right to transfer shares, or upon the directors of the company in respect of their powers of management, the nature and extent of those restrictions ;] ²[and]

²[(g) where any part of the sums required for the matters set out in sub-section (2) of section 101 is to be provided out of sources other than share capital, particulars of the amount to be so provided and the sources thereof.]

¹[(1A) Where the prospectus is issued by a company which has been carrying on business prior to the issue thereof, the prospectus shall set out the following reports in addition to the matters referred to in sub-section (1), namely :—

(i) a report by the auditors of the company with respect to the profits of the company including its subsidiary companies, if any, so far as the information is available in each of the three financial years immediately preceding the issue of the prospectus and with respect to the rates of the dividends, if any, paid by the company on each class of shares in the company for each of the said three years giving particulars of each such class of shares on which such dividends have been paid and the source from which the dividends have been paid and particulars of the cases in which no dividends have been paid on any class of shares for any of those years, and if no accounts have been made up for any part of a period of three years ending on a date three months before the issue of the prospectus, containing a statement of that fact ;

(ii) if the proceeds or any part of the proceeds of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by an accountant or accountants holding the certificate referred to in section 144 who shall be named in the prospectus upon the profits of the business in respect of each of the three financial years immediately preceding the issue of the prospectus :

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 50.

² Ins. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I.

(Part IV.—Management and Administration.)

and the meeting held in manner provided by the articles, ¹[or under this Act.]

82. (1) A copy of every special and extraordinary resolution shall, within fifteen days from ²[the passing thereof] be printed or typewritten ³[and duly certified under the signature of an officer of the company] and filed with the registrar who shall record the same.

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the date of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be forwarded in print to any member at his request, on payment of one rupee or such less sum as the company may direct.

(4) If a company makes default in so filing with the registrar a copy of a special or extraordinary resolution, it shall be liable to a fine not exceeding twenty rupees for every day during which the default continues.

(5) If a company makes default in embodying in or annexing to a copy of its articles or in forwarding in print to a member when required by this section a copy of a special resolution, it shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(6) Every officer of a company, who knowingly and wilfully authorises or permits any default by the company in complying with the requirements of this section shall be liable to the like penalty as is imposed by this section on the company for that default.

83. (1) Every company shall cause minutes of all proceedings of general meetings and of its directors to be entered in books kept for that purpose.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly called and held, and all proceedings had thereat to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

⁴[(4) The books containing the minutes of proceedings of any general meeting of a company held after the ⁵commencement of the Indian Companies (Amendment) Act, 1936, shall be kept at the registered office of the company and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose so that no less

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 35.

² Subs. by s. 36, *ibid.*, for "the confirmation of the special resolution or from the passing of the extraordinary resolution, as the case may be,".

³ Ins. by s. 36, *ibid.*

⁴ Sub-sections (4) to (7) ins. by s. 37, *ibid.*

⁵ The Act came into force on the 15th January, 1937.

(Part IV.—Management and Administration.)

(c) the contract depends for its validity or fulfilment on the result of that issue.

95. Where any of the property to be acquired by the company is to be taken on lease, section 93 shall apply as if the expression "vendor" included the lessor, and the expression "purchase-money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

96. ¹[(1)] Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirements of section 93, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

¹[(2)] It shall not be lawful to issue any form of application for the shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of section 93 :

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

(a). in connection with a *bonâ fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures ; or

(b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred rupees.]

97. ²[(1) If a prospectus is issued which does not comply with the provisions of section 93, every person who is knowingly responsible for the issue of such prospectus shall be liable to a fine not exceeding fifty rupees for every day from the day of the issue of the prospectus until a copy complying with the requirements of section 93 is filed.]

²[(2)] In the event of non-compliance with ³[or contravention of] any of the requirements of section 93, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance ³[or contravention] if he proves that—

(a) as regards any matter not disclosed, he was not cognisant thereof ; or

(b) the non-compliance ³[or contravention] arose from an honest mistake of fact on his part ; ³[or

(c) the non-compliance or contravention was in respect of matters which in the opinion of the Court were immaterial, or was otherwise such as ought in the opinion of the Court having regard to all the circumstances of the case reasonably to be excused :]

¹ The original s. 96 was re-numbered as sub-section (1) of that section and sub-section (2) was added, by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 51.

² The original s. 97 was re-numbered as sub-section (2) of that section and sub-section (1) was ins. by s. 52, *ibid.*

³ Ins. by s. 52, *ibid.*

(Part IV.—Management and Administration.)

of ¹[86C. Save as provided in this section, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer of the company or any person (whether an officer of the company or not) employed by the company as auditor from or indemnifying him against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void :

Provided that—

(a) in relation to any such provision which is in force at the date of the ²commencement of the Indian Companies (Amendment) Act, 1936, this section shall have effect only on the expiration of a period of six months from that date, and

(b) nothing in this section shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force, and

(c) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such director, manager, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, or in connection with any application under section 281 of this Act in which relief is granted to him by the Court.]

¹[86D. (1) No company shall make any loan or guarantee any loan made to a director of the company or to a firm of which such director is a partner or to a private company of which such director is a director.

(2) In the event of any contravention of sub-section (1) any director of the company who is a party to such contravention shall be punishable with fine which may extend to five hundred rupees, and if default is made in repayment of the loan or in discharging the guarantee shall be liable jointly and severally for the amount unpaid.

(3) This section shall not apply to a private company (except a private company which is the subsidiary company of a public company) or to a banking company.]

of ¹[86E. No director or firm of which such director is a partner or private company of which such director is a director shall without the consent of the company in general meeting hold any office of profit under the company except that of a managing director or manager or a legal or technical adviser or a banker :

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 42.

² The Act came into force on the 15th January, 1937.

(Part IV.—Management and Administration.)

and the provisions of section 93 shall have effect as if it required a prospectus to state, in addition to the matters required by that section to be stated in a prospectus,—

- (a) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates, and
- (b) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by all directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorised in writing.]

99. A company shall not, at any time, vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus, except subject to the approval of the company in general meeting.

100. (1) Where a prospectus invites persons to subscribe for shares or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus, and every person who has authorised the naming of himself and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorised the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for all loss or damage they may have sustained by reason of any misleading or untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

- (a) with respect to every misleading or untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement fairly represented the facts or was true ;
- (b) with respect to every misleading or untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation : Provided that the director, person named as director, promoter or

(Part IV.—Management and Administration.)

company other than that of a managing director or manager or a legal or technical adviser or a banker, or

(f) he absents himself from three consecutive meetings of the directors or from all meetings of the directors for a continuous period of three months whichever is the longer without leave of absence from the board of directors, or

(g) he or any firm of which he is a partner or any private company of which he is a director accepts a loan or guarantee from the company in contravention of section 86D, or

(h) he acts in contravention of section 86F.

(2) Nothing contained in this section shall be deemed to preclude a company from providing by its articles that the office of director shall be vacated on grounds additional to those specified in this section.]

f. and 1[87. (1) Every company shall keep at its registered office a register of its directors, managers and managing agents containing with respect to each of them the following particulars, that is to say :—

(a) in the case of an individual, his present name in full, any former name or surname in full, his usual residential address, his nationality and, if that nationality is not the nationality of origin, his nationality of origin and his business occupation, if any, and if he holds any other directorship or directorships the particulars of such directorship or directorships ;

(b) in the case of a corporation, its corporate name and registered or principal office ; and the full name, address and nationality of each of its directors ; and

(c) in the case of a firm, the full name, address and nationality of each partner, and the date on which each became a partner.

(2) The company shall within the periods respectively mentioned in this sub-section send to the registrar a return in the prescribed form containing the particulars specified in the said register and a notification in the prescribed form of any change among its directors, managers or managing agents or in any of the particulars contained in the register.

The period within which the said return is to be sent shall be a period of fourteen days from the appointment of the first directors of the company and the period within which the said notification of a change is to be sent shall be fourteen days from the happening thereof.

(3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of one rupee or such less sum as the company may impose for each inspection.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 43, for the original section.

(Part IV.—Management and Administration.)

if default is made in repayment of the loan or discharging the guarantee shall be liable jointly and severally for the amount unpaid.

(4) Nothing in this section shall apply to a private company except a private company which is the subsidiary company of a public company.

(5) Except with the consent of three-fourths of the directors present and entitled to vote on the resolution, a managing agent of the company, or the firm of which he is a partner, or any partner of such firm, or, if the managing agent is a private company, a member or director thereof, shall not enter into any contract for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract for such sale, purchase or supply entered into before the ¹commencement of the Indian Companies (Amendment) Act, 1936.] XXI
1936

²[**87E.** (1) No company incorporated under this Act after the ¹commencement of the Indian Companies (Amendment) Act, 1936, which is under the management of a managing agent shall make any loan to or guarantee any loan made to any company under management by the same managing agent, and no company shall after the expiry of six months from the commencement of the said Act except by way of renewal of an existing loan or guarantee given make any loan to or guarantee any loan made to any such company : XXI
1936

Provided that nothing herein contained shall apply to loans made or guarantees given by a company to or on behalf of a company under its own management or loans made by or to a company to or by a subsidiary company thereof or to guarantees given by a company on behalf of a subsidiary company thereof.

(2) In the event of any contravention of the provisions of this section, any director or officer of the company making the loan or giving the guarantee who is knowingly and wilfully in default shall be liable to a fine not exceeding one thousand rupees and shall be jointly and severally liable for any loss incurred by the company in respect of such loan or guarantee.]

²[**87F.** A company other than an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities, shall not purchase shares or debentures of any company under management by the same managing agent, unless the purchase has been previously approved by a unanimous decision of the board of directors of the purchasing company.]

²[**87G.** A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or, except with the authority of the directors, and within the limits fixed by them, a power to invest the funds of the company, and any delegation of any such power by a company to a managing agent shall be void.]

¹ The Act came into force on the 15th January, 1937.

² Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 44.

(Part IV.—Management and Administration.)

of the company and not later ¹[or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting within one month after the date of the allotment and not later], and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorises the contravention of any of the provisions of section 101 with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby : Provided that proceedings to recover any such loss, damages or costs shall not be commenced after the expiration of two years from the date of the allotment.

103. (1) A company shall not commence any business or exercise any borrowing powers unless—

- (a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription ; and
- (b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription or, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash ; and
- (c) there has been filed with the registrar a duly verified declaration by the secretary or one of the directors in the prescribed form, that the aforesaid conditions have been complied with ; and
- (d) in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the register a statement in lieu of prospectus.

(2) The registrar shall, on the filing of a duly verified declaration, in accordance with the provisions of this section certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled :

Provided that, in the case of a company which does not issue a prospectus inviting the public to subscribe for its shares, the registrar shall not give such a certificate unless a statement in lieu of prospectus has been filed with him.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 56.

(Part IV.—Management and Administration.)

(2) Every such manager or other agent shall forthwith deliver the memorandum aforesaid to the company ¹[and send copies to the directors], and such memorandum shall be filed in the office of the company and laid before the directors at the next directors' meeting.

(3) If any such manager or other agent makes default in complying with the requirements of this section—

(a) the contract shall, at the option of the company, be void as against the company ; and

(b) such manager or other agent shall be liable to a fine not exceeding two hundred rupees.]

Prospectus.

92. (1) Every prospectus issued by or on behalf of a company or in relation to any intended company shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, shall be filed for registration with the registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed for registration.

(3) The registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding fifty rupees for every day from the date of the issue of the prospectus until a copy thereof is so filed.

93. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, shall state—

(a) the contents of the memorandum, with the names, descriptions and addresses of the signatories and the number of shares subscribed for by them respectively ; and the number of founders or management or deferred shares (if any) and the nature and extent of the interest of the holders in the property and profits of the company ²[and the number of redeemable preference shares intended to be issued with the date or, where no date is fixed, the period of notice required and the proposed method of redemption] ; and

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 49.

² Ins. by s. 50, *ibid.*

(Part IV.—Management and Administration.)

Provided that, in case of default in filing with the registrar within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that on other grounds it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such a period as the Court may think proper.

¹[(4) Nothing in this section shall apply to the issue and allotment by a company of shares which under the provisions of its articles were forfeited for non-payment of calls.]

Commissions and Discounts.

105. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorised by the articles and the commission paid or agreed to be paid does not exceed the amount or rate so authorised and if the amount or rate per cent. of the commission paid or agreed to be paid is—

- (a) in the case of shares offered to the public for subscription, disclosed in the prospectus ; or
- (b) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and filed with the registrar and, where a circular or notice, not being a prospectus inviting subscription for the shares is issued, also disclosed in that circular or notice.

(2) Save as aforesaid ²[and save as provided in section 105A], no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase-money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase-money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay, and

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 57.

² Ins. by s. 58, *ibid.*

(Part IV.—Management and Administration.)

property is a business, the profits accruing from such business during each of the three years immediately preceding the issue of the prospectus or during each year of the existence of the business if less than three years so far as the information is available. A balance sheet of the business concerned made up to a date not more than ninety days before the date of the issue of the prospectus shall be appended to the prospectus ; and]

- (g) the amount (if any) paid or payable as purchase-money in cash, shares or debentures, for any such property as aforesaid, specifying the amount (if any) payable for goodwill ; and
- (h) the amount (if any) paid within the two preceding years or payable, as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, ¹[or as discount in respect of shares issued, showing separately the amount, if any, so paid to the managing agents] : Provided that it shall not be necessary to state the commission payable to sub-underwriters ; and
- (i) the amount or estimated amount of preliminary expenses ; and
- (k) the amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment ; and
- (l) the dates of, and parties to, every material contract ²[including contracts relating to the acquisition of property to which clause (f) applies], and a reasonable time and place at which any material contract or a copy thereof may be inspected : Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract ²[(except a contract appointing or fixing the remuneration of a managing director or managing agent)] entered into more than two years before the date of issue of the prospectus ; and
- (m) the names and addresses of the auditors (if any) of the company ; and
- (n) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services ren-

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 50, for the words " or the rate of any such commission ".

² Ins., *ibid.*

(Part IV.—*Management and Administration.*)

- (c) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called "the capital redemption reserve fund", a sum equal to the amount applied in redeeming the shares, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company ;
- (d) where any such shares are redeemed out of the proceeds of a fresh issue, the premium, if any, payable on redemption must have been provided for out of the profits of the company before the shares are redeemed.

(2) There shall be included in every balance-sheet of a company which has issued redeemable preference shares a statement specifying what part of the issued capital of the company consists of such shares and the date on or before which those shares are, or are to be, liable to be redeemed or, where no definite date is fixed for redemption, the period of notice to be given for redemption.

If a company fails to comply with the provisions of this sub-section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one thousand rupees.

(3) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purpose of calculating the fees payable under section 249 be deemed to be increased by the issue of shares in pursuance of this sub-section :

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to stamp duty, be deemed to have been issued in pursuance of this sub-section unless the old shares are redeemed within one month after the issue of the new shares.

(5) Where new shares have been issued in pursuance of the last foregoing sub-section, the capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company, up to an amount equal to the nominal amount of the shares so issued, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.]

(Part IV.—Management and Administration.)

Provided that if, in the case of a company which has been carrying on business for less than three years, the accounts of the company have been made up only in respect of two years or any shorter period, this sub-section shall have effect as if references to two years or such shorter period were substituted for references to three years.]

¹[(1B) The statement referred to in clause (ff) of sub-section (1) and the report referred to in sub-section (1A) with respect to the profits of a company or business shall show clearly the trading results and all charges and expenses incidental thereto excluding income or profits having no relation to the trading for the period covered and excluding also items of profit or income of a non-recurring nature but including amounts appropriated from profits to such purposes as payment of taxation or reserves.]

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(2) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum, or the signatories thereto, and the number of shares subscribed for by them.

(3) This section shall not apply to a circular or notice inviting existing members or debenture-holders of a company to subscribe either for shares or for debentures of the company, whether with or without the right to renounce in favour of other persons.

(4) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and of managers or proposed managers, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business :

¹[Provided that the said requirements, except the requirement as to the amount or estimated amount of preliminary expenses, shall apply to a prospectus filed in pursuance of section 154.]

(5) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

94. For the purposes of section 93 every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

(a) the purchase-money is not fully paid at the date of issue of the prospectus ; or

(b) the purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus ; or

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 50.

² Sub-section (1C), which had been ins. by s. 50, *ibid.*, was rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

(Part IV.—Management and Administration.)

- (4) the payment shall be made only for such period as may be determined by the ¹[Central Government]; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided;
- (5) the rate of interest shall in no case exceed four per cent. per annum or such lower rate as the ²[Central Government], may, by notification in the ³[Official Gazette], prescribe;
- (6) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;
- (7) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate;
- (8) nothing in this section shall affect any company to which the Indian Railway Companies Act, 1895, or the Indian Tramways Act, 1902, applies.

Certificates of Shares, etc.

108. (1) Every company shall, within three months after the allotment of any of its shares, debentures or debenture stock, and within three months after the registration of the transfer of any such shares, debentures or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

(2) If default is made in complying with the requirements of this section, the company, and every officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Information as to Mortgages, Charges, etc.

109. ⁴[(1)] Every mortgage or charge created after the commencement of this Act by a company and being either—

- (a) a mortgage or charge for the purpose of securing any issue of debentures; or
- (b) a mortgage or charge on uncalled share capital of the company; or
- (c) a mortgage or charge on any immoveable property wherever situate, or any interest therein; or

¹ Subs. by the A. O. for "L. G."

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "Gazette of India".

⁴ The original s. 109 was re-numbered as sub-section (1) of that section by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 60.

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(Part IV.—Management and Administration.)

Provided that, in the event of non-compliance with ¹[or contravention of] the requirements contained in clause (n) of sub-section (1) of section 93, no such director or other person shall incur any liability in respect of the non-compliance ¹[or contravention] unless it be proved that he had knowledge of the matters not disclosed.

98. (1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the registrar a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorised in writing, in the form and containing the particulars ²[set out in the form marked I in the Second Schedule].

(2) This section shall not apply to a private company or to a company which has allotted any shares or debentures before the commencement of this Act or, in so far as it relates to the allotment of shares to a company limited by guarantee and not having a share capital.

³[98A. (1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses or otherwise relating to prospectuses shall apply and have effect accordingly as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Act it shall, unless the contrary is proved, be evidence that an allotment of or an agreement to allot shares or debentures was made with a view to the shares or debentures being offered for sale to the public, if it is shown—

(a) that an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or

(b) that at the date when the offer was made the whole of the consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section 97 shall apply to the person or persons making the offer as though they were persons named in a prospectus as directors of a company,

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 52.

² Subs. by s. 53, *ibid*, for "set out in the Second Sch."

³ Ins. by s. 54, *ibid*.

(Part IV.—Management and Administration.)

¹[(2) Where any mortgage or charge on any property of a company required to be registered under this section has been so registered, any person acquiring such property or any part thereof, or any share or interest therein, shall be deemed to have notice of the said mortgage or charge as from the date of such registration.]

²[In this section " British India " does not include Burma or Aden, whatever the date of the mortgage or charge in question.]

³[**109A.** (1) Where after the ⁴commencement of the Indian Companies (Amendment) Act, 1936, a company registered in British India acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part, the company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the registrar for registration in manner required by this Act within twenty-one days after the date on which the acquisition is completed :

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Provided that, if the property is situate and the charge was created outside British India, twenty-one days after the date on which the copy of the instrument could in due course of post, and if despatched with due diligence, have been received in British India shall be substituted for twenty-one days after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the registrar.

(2) If default is made in complying with this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine of five hundred rupees.]

110. Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture-holders of that series are entitled *pari passu* is created by a company, it shall be sufficient for the purposes of section 109 if there are filed with the registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars :—

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- (a) the total amount secured by the whole series ; and
- (b) the dates of the resolution authorising the issue of the series and the date of the covering deed (if any) by which the security is created or defined ; and
- (c) a general description of the property charged ; and
- (d) the names of the trustees (if any) for the debenture-holders ;

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 60.

² Ins. by the A. O.

³ Ins. by Act 22 of 1936, s. 61.

⁴ The Act came into force on the 15th January, 1937.

(Part IV.—Management and Administration.)

115. The company shall cause a copy of every certificate of registration, given under section 114, to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered :

Provided that nothing in this section shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge so given to be endorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

116. (1) It shall be the duty of the company to file with the registrar for registration the prescribed particulars of every mortgage or charge created by the company and of the issues of debentures of a series, requiring registration under section 109, but registration of any such mortgage or charge may be effected on the application of any person interested therein.

(2) Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

¹[(3) Whenever the terms or conditions or extent or operation of any mortgage or charge registered under this section are modified, it shall be the duty of the company to send to the registrar the particulars of such modification, and the provisions of this section as to registration of mortgage or a charge shall apply to such modification of the mortgage or charge as aforesaid.]

117. Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under section 109 to be kept at the registered office of the company : Provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

118. (1) If any person obtains an order for the appointment of a receiver of the property of a company, or appoints such a receiver under any powers contained in any instrument, he shall, within fifteen days from the date of the order or of the appointment under the powers contained in the instrument, file notice of the fact with the registrar, and the registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

(2) If any person makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

119. (1) Every receiver of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall once in every half-year while he remains in possession, and

¹ Ins. by the Indian Companies (Amendment) Act, 1930 (2).

(Part IV.—Management and Administration.)

exceeding fourteen days) to be fixed by such notice, why the payment or satisfaction of the charge or mortgage should not be recorded.

(3) The registrar shall, if no cause is shown, order that a memorandum of satisfaction be entered on the register and shall if required furnish the company with a copy thereof.

(4) Where cause is shown, the registrar shall record a note to that effect in the register, and shall inform the company that he has done so.]

122. (1) If any company makes default in filing with the registrar for P registration the particulars—

(a) of any mortgage or charge created by the company ; or

¹[(b) of the payment or satisfaction of a debt in respect of which a mortgage or charge has been registered under section 109 or section 109A ; or]

¹[(c)] of the issues of debentures of a series, requiring registration with the registrar under the foregoing provisions of this Act, then, unless the registration has been effected on the application of some other person, the company, and every officer of the company or other person who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding five hundred rupees for every day during which the default continues.

(2) Subject as aforesaid, if any company makes default in complying with any of the requirements of this Act as to the registration with the registrar of any mortgage or charge created by the company, the company, and every officer of the company, who knowingly and wilfully authorises or permits the default shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

(3) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock requiring registration with the registrar under the foregoing provisions of this Act without a copy of the certificate of registration being endorsed upon it, he shall, without prejudice to any other liability, be liable on conviction to a fine not exceeding one thousand rupees.

123. (1) Every ^{2*} company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company ³[and all floating charges on the undertaking or on any property of the company], giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge and (except in the case of securities to bearer) the names of the mortgagees or persons entitled thereto.

(2) If any director, manager or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be

¹ Clause (b) was ins. and the original clause (b) re-lettered (c) by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 66.

² The word " limited " rep. by s. 67, *ibid.*

³ Ins. by s. 67, *ibid.*

(Part IV.—Management and Administration.)

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding five hundred rupees for every day during which the contravention continues.

(6) Nothing in this section shall apply to a private company, or to a company registered before the commencement of this Act which does not issue a prospectus inviting the public to subscribe for its shares or, in so far as its provisions relate to shares, to a company limited by guarantee and not having a share capital.

104. (1) Whenever a company having a share capital makes any allotment of its shares, the company shall, within one month thereafter,—

(a) file with the registrar a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees, and the amount (if any) paid or due and payable on each share ; and

(b) in the case of shares allotted as fully or partly paid up otherwise than in cash, produce for the inspection and examination of the registrar a contract in writing constituting the title of the allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and file with the registrar copies verified in the prescribed manner of all such contracts and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above mentioned is not reduced to writing, the company shall, within one month after the allotment, file with the registrar the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and these particulars shall be deemed to be an instrument within the meaning of the Indian Stamp Act, 1899, and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section 31 of that Act. II of

(3) If default is made in complying with the requirements of this section, every officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues :

(Part IV.—Management and Administration.)

a vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

¹[105A. (1) Subject to the provisions of this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued :

Provided that—

- (a) the issue of the shares at a discount must be authorised by resolution passed in general meeting of the company and must be sanctioned by the Court ;
- (b) the resolution must specify the maximum rate of discount (not exceeding ten per cent. in any case) at which shares are to be issued ;
- (c) not less than one year must at the date of issue have elapsed since the date on which the company was entitled to commence business ;
- (d) the shares to be issued at a discount must be issued within six months after the date on which the issue is sanctioned by the Court or within such extended time as the Court may allow.

(2) Every prospectus relating to the issue of the shares and every balance-sheet issued by the company subsequently to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the document in question.

(3) If default is made in complying with sub-section (2), the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty rupees.]

¹[105B. (1) Subject to the provisions of this section, a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be, liable to be redeemed :

Provided that—

- (a) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption or out of sale proceeds of any property of the company ;
- (b) no such shares shall be redeemed unless they are fully paid ;

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 59.

(Part IV.—Management and Administration.)

shall in respect of such offence be liable to a fine not exceeding one thousand rupees.]

131. ¹[(1) The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a balance-sheet and profit and loss account or in the case of a company not trading for profit an income and expenditure account for the period, in the case of the first account since the incorporation of the company and in any other case since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months or in the case of a company carrying on business or having interests outside British India by more than twelve months :

Provided that the registrar may for any special reason extend the period by a period not exceeding three months.]

(2) The balance-sheet ²[and the profit and loss account or income and expenditure account] shall be audited by the auditor of the company as hereinafter provided, and the auditor's report shall be attached thereto, or there shall be inserted at the foot thereof a reference to the report, and the report shall be read before the company in general meeting and shall be open to inspection by any member of the company.

(3) Every company other than a private company shall send a copy of ³[such balance-sheet and profit and loss account or income and expenditure account so audited together with a copy of the auditors' report] to the registered address of every member of the company at least ⁴[fourteen days] before the meeting at which it is to be laid before the members of the company, and shall deposit a copy at the registered office of the company for the inspection of the members of the company during a period of at least ⁵[fourteen days] before that meeting.

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⁶[131A. (1) The directors shall make out and attach to every balance-sheet a report with respect to the state of the company's affairs, the amount, if any, which they recommend should be paid by way of dividend and the amount, if any, which they propose to carry to the Reserve Fund, General Reserve or Reserve Account shown specifically on the balance-sheet or to a Reserve Fund, General Reserve or Reserve Account to be shown specifically in a subsequent balance-sheet.

(2) The report referred to in sub-section (1) may be signed by the chairman of the directors on behalf of the directors if authorised in that behalf by the directors.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 69, for the original sub-section.

² Ins. by s. 69, *ibid.*

³ Subs. by s. 69, *ibid.*, for "such balance-sheet so audited".

⁴ Subs. by s. 69, *ibid.*, for "seven days".

⁵ Sub-section (4) rep. by s. 69, *ibid.*

⁶ Ins. by s. 70, *ibid.*

(Part IV.—Management and Administration.)

¹[105C. Where the directors decide to increase the capital of the company by the issue of further shares such shares shall be offered to the members in proportion to the existing shares held by each member (irrespective of class) and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company.]

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^{id} 106. Where a company has paid any sums by way of commission in respect of any shares or debentures or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off.

Payment of Interest out of Capital.

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^{s.} 107. Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant :

Provided that—

- (1) no such payment shall be made unless the same is authorised by the articles or by special resolution ;
- (2) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the ²[Central Government], which sanction shall be conclusive evidence for the purposes of this section that the shares of the company, in respect of which such sanction is given, have been issued for a purpose specified in this section ;
- (3) before sanctioning any such payment, the ²[Central Government] may, at the expense of the company, appoint a person to inquire and report to ³such ²[Central Government] as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry ;

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 59.

² Subs. by the A. O. for "L. G."

³ Sic. should be "the".

(Part IV.—Management and Administration.)

- (d) a mortgage or charge on any book debts of the company ; or
- ¹[(e) a mortgage or a charge, not being a pledge on any moveable property of the company except stock-in-trade ; or]
- ²[(f)] a floating charge on the undertaking or property of the company ;

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge, together with the instrument (if any) by which the mortgage or charge is created or evidenced, or a copy thereof verified in the prescribed manner are filed with the registrar for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a mortgage or charge becomes void under this section, the money secured thereby shall immediately become payable :

Provided that—

- (i) in the case of a mortgage or charge created out of British India comprising solely property situate outside British India, twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in British India shall be substituted for twenty-one days after the date of the creation of the mortgage or charge, as the time within which the particulars and instrument or copy are to be filed with the registrar ; and
- (ii) where the mortgage or charge is created in British India but comprises property outside British India, the instrument creating or purporting to create the mortgage or charge or a copy thereof verified in the prescribed manner may be filed for registration notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situate ; and
- (iii) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a mortgage or charge on those book debts ; and
- (iv) the holding of debentures entitling the holder to a charge on immoveable property shall not be deemed to be an interest in immoveable property.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 60.

² The original cl. (e) was re-lettered (f), *ibid.*

(Part IV.—Management and Administration.)

¹[Provided that a firm ²[whereof all the partners practising in India] hold such certificates may be appointed by its firm-name to be auditor of a company, and may act in its firm-name.]

³[(2) The ⁴[Central Government] may, by notification in the ⁵[Official Gazette] and after previous publication, make rules⁶ providing for the grant, renewal or cancellation of such certificates and prescribing conditions and restrictions for such grant, renewal or cancellation :

Provided that nothing contained in such rules shall preclude any person from being granted a certificate merely by reason that he does not practise as a public accountant.

(2A) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) provide for the maintenance of a Register of Accountants entitled to apply for such certificates ;
- (b) prescribe the qualifications for enrolment on the Register and the fees therefor ;
- (c) provide for the examination of candidates for enrolment, and prescribe the fees to be paid by examinees ;
- (d) prescribe the circumstances in which the name of any person may be removed from or restored to the Register ;
- (e) provide for the establishment, constitution and procedure of an Indian Accountancy Board, consisting of persons representing the interests principally affected or having special knowledge of accountancy in India, to advise ⁷[it] on all matters of administration relating to accountancy, and to assist ⁷[it] in maintaining the standards of qualification and conduct of persons enrolled on the Register ; and
- (f) provide for the establishment, constitution and procedure of local accountancy boards at such centres as the ⁴[Central Government] may select, to advise ⁷[it] and the Indian Accountancy Board on any matter that may be referred to them.

(2B) The holder of a certificate granted under this section shall be entitled to be appointed and act as an auditor of companies throughout British India.]

(3) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

¹ Subs. by the Indian Companies (Amendment) Act, 1930 (19 of 1930), s. 2, for the original proviso.

² Subs. by the Indian Companies (Supplementary Amendment) Act, 1932 (1 of 1932), s. 2, for "whereof the partners all".

³ Sub-sections (2), (2A) and (2B) were subs. by Act 19 of 1930, s. 2, for the original sub-section (2).

⁴ Subs. by the A. O. for "G. G. in C."

⁵ Subs. by the A. O. for "Gazette of India".

⁶ See the Auditors' Certificates Rules, 1932, published with the Notification of the Govt. of India, Commerce Department (Registration of Accountants) No. 213-II-T. & E. (A-3), dated 26th March 1932.

⁷ Subs. by the A. O. for "him".

(Part IV.—Management and Administration.)

together with the deed or a copy thereof verified in the prescribed manner containing the charge, or if there is no such deed, one of the debentures of the series, and the registrar shall, on payment of the prescribed fee, enter those particulars in the register :

Provided that, where more than one issue is made of debentures in the series, there shall be filed with the registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

111. Where any commission, allowance or discount has been paid or made either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be filed for registration under sections 109 and 110 shall include particulars as to the amount or rate per cent. of the commission, discount or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued :

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

112. (1) The registrar shall keep, with respect to each company, a register in the prescribed form of all mortgages and charges created by the company after the commencement of this Act and requiring registration under section 109, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage, or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged, and the names of the mortgagees or persons entitled to the charge.

(2) After making the entry required by sub-section (1), the registrar shall return the instrument (if any) or the verified copy thereof, as the case may be, filed in accordance with the provisions of section 109 or section 110 to the person filing the same.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding one rupee for each inspection.

113. The registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the mortgages or charges registered with him under this Act.

114. The registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of section 109, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of sections 109 to 112 as to registration have been complied with.

(Part IV.—Management and Administration.)

145. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the members of the company on the accounts examined by them, and on every balance-sheet ¹[and profit and loss account] laid before the company in general meeting during their tenure of office, and the report shall state :—

(a) whether or not they have obtained all the information and explanations they have required ; and

²[(b) whether or not in their opinion the balance-sheet and the profit and loss account referred to in the report are drawn up in conformity with the law ; and]

(c) whether ¹[or not] such balance-sheet exhibits a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company ; ¹[and

(d) whether in their opinion books of account have been kept by the company as required by section 130.]

¹[(2A) Where any of the matters referred to in clauses (a), (b), (c) and (d) of sub-section (2) is answered in the negative or with a qualification, the report shall state the reason for such answer.]

(3) In the case of a banking company, if the company has branch banks beyond the limits of India, it shall be sufficient if the auditor is allowed access to such copies of and extracts from the books and accounts of any such branch as have been transmitted to the head office of the company in British India.

¹[(4) The auditors of a company shall be entitled to receive notice of and to attend any general meeting of the company at which any accounts which have been examined or reported on by them are to be laid before the company and may make any statement or explanation they desire with respect to the accounts.

(5) If any auditors' report is made which does not comply with the requirements of this section, every auditor who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to one hundred rupees.]

146. (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance-sheets ³[and profit and loss accounts] of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 81.

² Subs. by s. 81, *ibid.*, for the original clause.

³ Ins. by s. 82, *ibid.*

(Part IV.—Management and Administration.)

made in pursuance of this section, he shall be liable to a fine not exceeding five hundred rupees.

124. (1) The copies kept at the registered office of the company in pursuance of section 117 of instruments creating any mortgage or charge requiring registration under this Act with the registrar, and the register of mortgages kept in pursuance of section 123, shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding one rupee for each inspection, as the company may prescribe.

(2) If inspection of the said copies or register is refused, the company shall be liable to a fine not exceeding fifty rupees and a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and in addition to the above penalty, the Court may by order compel an immediate inspection of the copies or register.

125. (1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles during such period or periods (not exceeding in the whole thirty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the register or any part thereof on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(2) A copy of any trust-deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust-deed of the sum of one rupee or such less sum as may be prescribed by the company, or, where the trust-deed has not been printed, on payment of six annas for every one hundred words or fractional part thereof required to be copied.

(3) If inspection is refused, or a copy is refused or not forwarded, the company shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding twenty rupees for every day during which the refusal continues, and every officer of the company who knowingly authorises or permits the refusal shall incur the like penalty, and the Court may by order compel an immediate inspection of the register.

Debentures and Floating Charges.

126. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the passing of this Act, shall not be invalid by reason only that thereby the debentures

(Part IV.—*Management and Administration.* Part V.—*Winding up.*)

(2) If default is made in complying with sub-section (1) of this section the company and every officer of the company who is knowingly and fully in default shall be liable to a fine not exceeding five hundred rupees.

(3) Where the articles of a company include the provisions aforesaid but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in this Act, and thereupon the provisions of this Act shall apply to the company as if it were not a private company :

Provided that the Court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the Court just and expedient order that the company be relieved from such consequences as aforesaid.]

PART V.

WINDING UP.

Preliminary.

155. (1) The winding up of a company may be either—

- (i) by the Court ; or
- (ii) voluntary ; or
- (iii) subject to the supervision of the Court.

(2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of these modes :

Contributories.

156. (1) In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say) :—

- (i) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up ;
- (ii) a past member shall not be liable to contribute in respect of any debt, or liability of the company contracted after he ceased to be a member ;

(Part IV.—Management and Administration.)

(ii) in the case of any other company, be signed by two directors or, when there are less than two directors, by the sole director and by the manager ¹[or managing agent] (if any) of the company.

(2) When the total number of directors of the company for the time being in British India is less than the number of directors whose signatures are required by sub-section (1), then the balance-sheet ¹[and profit and loss account or income and expenditure account] shall be signed by all the directors for the time being in British India, or, if there is only one director for the time being in British India, by such director, but in such a case there shall be subjoined to the balance-sheet ¹[and profit and loss account or income and expenditure account] a statement signed by such directors or director explaining the reason for non-compliance with the provisions of sub-section (1).

²[(3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees.]

³134. (1) ³[After the balance-sheet and profit and loss account have] been laid before the company at the general meeting a copy ⁴[of the balance-sheet] signed by the manager or secretary of the company shall be filed with the registrar at the same time as the copy of the annual list of members and summary prepared in accordance with the requirements of section 32.

(2) If the general meeting before which a balance-sheet is laid does not adopt the balance-sheet, a statement of that fact and of the reasons therefor shall be annexed to the balance-sheet and to the copy thereof required to be filed with the registrar.

(3) This section shall not apply to a private company.

(4) If a company makes default in complying with the requirements of this section, the company and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty as is provided by section 32 for a default in complying with the provisions of that section.

135. Save as otherwise provided in this Act, any member of a company shall be entitled to be furnished with copies of the balance-sheet ⁵[and the

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 73.

² Subs. by s. 73, *ibid.*, for the original sub-section.

³ Subs. by s. 74, *ibid.*, for " After the balance-sheet has ".

⁴ Subs. by s. 74, *ibid.*, for " thereof ".

⁵ Ins. by s. 75, *ibid.*

(Part V.—Winding up.)

liabilities of the company, and the costs, charges and expense of the winding up.

158. The term “contributory” means every person liable to contribute to the assets of a company in the event of its being wound up, and, in all proceedings for determining and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory.

159 ¹[(1) The liability of a contributory shall create a debt payable at the time specified in the calls made on him by the liquidator.]

(2) No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes sitting outside the Presidency-towns.

160. (1) If a contributory dies either before or after he has been placed on the list of contributories, his legal representatives and his heirs shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

(2) If the legal representatives or heirs make default in paying any moneys ordered to be paid by them, proceedings may be taken for administering the property of the deceased contributory, whether moveable or immovable, or both, and of compelling payment thereout of the money due.

²[(3) For the purposes of this section the surviving coparceners of a contributory who is a member of a Hindu joint family governed by the Mitakshara School of Hindu Law shall be deemed to be his legal representative and heirs.]

161. If a contributory is adjudged insolvent either before or after he has been placed on the list of contributories, then—

- (1) his assignees shall represent him for all the purposes of the winding up, and shall be contributories accordingly, and may be called on to admit to proof against the estate of the insolvent, or otherwise to allow to be paid out of his assets in due course of law, any money due from the insolvent in respect of his liability to contribute to the assets of the company; and
- (2) there may be proved against the estate of the insolvent the estimated value of his liability to future calls as well as calls already made.

Winding up by Court.

162. A company may be wound up by the Court—

- (i) if the company has by special resolution resolved that the company be wound up by the Court;
- (ii) if default is made in filing the statutory report or in holding the statutory meeting:

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 86, for the original sub-section.

² Ins. by s. 87, *ibid.*

(Part IV.—Management and Administration.)

(3) If any such person refuses or neglects to furnish any such information or explanation, he shall be liable to a fine not exceeding fifty rupees in respect of each offence ¹[, and the Court may on the application of the registrar and upon notice to the company make an order on the company for production of such documents as in its opinion may reasonably be required by the registrar for his investigation and allow the registrar inspection thereof on such terms and conditions as it thinks fit.]

(4) On receipt of such information or explanation the registrar may annex the same to the original document submitted to him ; and any additional document so annexed by the registrar shall be subject to the like provisions as to inspection and the taking of copies as the original document is subject.

(5) If such information or explanation is not furnished within the specified time, or if after perusal of such information or explanation the registrar is of opinion that the document in question discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matters to which it purports to relate, the registrar shall report in writing the circumstances of the case to the ²[Central Government].

¹[(6) If it is represented to the registrar in materials placed before him by any contributory or creditor that the business of a company is carried on in fraud of its creditors or in fraud of persons dealing with the company for a fraudulent purpose, he may after giving the company an opportunity of being heard by written order call on the company for information or explanation on matters specified in the order within such time as he may specify in the order and the provisions of sub-sections (2), (3) and (5) of this section shall apply to such order. If upon investigation the registrar is satisfied that any representation on which he has taken action under this sub-section is frivolous or vexatious, he shall disclose the identity of the informant to the company.]

(7) The provisions of this section shall apply *mutatis mutandis* to documents which a liquidator is required to file under this Act.]

Inspection and Audit.

138. The ²[Central Government] may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the ²[Central Government] may direct—

- (i) in the case of a banking company having a share capital, on the application of members holding not less than one-fifth of the shares issued ;
- (ii) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued ;

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 77.

² Subs. by the A. O. for " L. G. "

(Part V.—Winding up.)

companies, the High Court may transfer the same to such other Court, and thereupon the winding up shall proceed in such other District Court.

166. An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by any or any of those parties, together or separately ¹[, or by the registrar] :

Provided that—

(a) a contributory shall not be entitled to present a petition for winding up a company unless—

- (i) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven ; or
- (ii) the shares in respect of which he is a contributory or some of them either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder ;

¹[(aa) the registrar shall not be entitled to present a petition for winding up a company—

- (i) except on the ground that from the financial condition of the company as disclosed in its balance-sheet or from the report of an inspector appointed under section 138 it appears that the company is unable to pay its debts, and
- (ii) unless the previous sanction of the ²[Central Government] has been obtained to the presentation of the petition :

Provided that no such sanction shall be given unless the company has first been afforded an opportunity of being heard.]

- (b) a petition for winding up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder nor before the expiration of fourteen days after the last day on which the meeting ought to have been held ;
- (c) the Court shall not give a hearing to a petition for winding up a company by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and until a *prima facie* case for winding up has been established to the satisfaction of the Court.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 89.

² Subs. by the A. O. for "L. G."

(Part IV.—Management and Administration.)

in relation to the company for which he is criminally liable, the ¹[Central Government] shall refer the matter to the Advocate General or the Public Prosecutor.

(2) If the officer to whom the matter is referred considers that the case is one in which a prosecution ought to be instituted, he shall cause proceedings to be instituted, and it shall be the duty of all officers and agents of the company, past and present (other than the accused in the proceedings), to give to him all assistance in connection with the prosecution which they are reasonably able to give.

(3) For the purposes of sub-section (2), the expression "agents" in relation to a company shall be deemed to include the bankers and legal advisers of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.

(4) Any director, manager or other officer of the company convicted as the result of a prosecution initiated under this section shall not without the leave of the Court be a director of or in any way whether directly or indirectly be concerned in or take part in the management of a company for a period of five years from the date of such conviction.]

142. (1) A company may by a special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the ¹[Central Government], except that, instead of reporting to the ¹[Central Government], they shall report in such manner and to such persons as the company in general meeting may direct.

(3) All persons who are or have been officers of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the ¹[Central Government].

143. A copy of the report of any inspectors appointed under this Act authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

144. (1) No person shall be appointed or act as an auditor of any company other than a private company ²[not being the subsidiary company of a public company] unless he holds a certificate from the ³[Central Government] entitling him to act as an auditor of companies :

¹ Subs. by the A. O. for "L. G."

² Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 80.

³ Subs. by the A. O. for the words "G. G. in C.", which had been subs. for the words "L. G." by the Indian Companies (Amendment) Act, 1930 (19 of 1930), s. 2.

(Part V.—Winding up.)

(4) The official receiver shall be entitled to such remuneration as the Court shall fix.]

172. ¹[(1) On the making of a winding up order it shall be the duty of the petitioner in the winding up proceedings and of the company to file with the registrar a copy of the order within a month from the date of the making of the order.]

(2) On the filing of a copy of a winding up order, the registrar shall make a minute thereof in his books relating to the company, and shall notify in the ²[Official Gazette] that such an order has been made.

(3) Such order shall be deemed to be notice of discharge to the servants of the company, except when the business of the company is continued.

173. The Court may at any time after an order for winding up, on the application of any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit.

174. The Court may, as to all matters relating to a winding up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

Official Liquidators.

175. (1) For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a person or persons ³[other than the official receiver] to be called an official liquidator or official liquidators.

(2) The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding up ³[but shall before making any such appointment give notice to the company, unless for reasons to be recorded it thinks fit to dispense with notice.]

(3) If more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act by this Act required or authorised to be done by the official liquidator is to be done by all or any one or more of such persons.

(4) The Court may determine whether any, and what, security is to be given by any official liquidator on his appointment.

(5) The acts of an official liquidator shall be valid notwithstanding any defect that may afterwards be discovered in his appointment: Provided that nothing in this sub-section shall be deemed to give validity to acts done by an official liquidator after his appointment has been shown to be invalid.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 93, for the original sub-section.

² Subs. by the A. O. for "local official Gazette".

³ Ins. by Act 22 of 1936, s. 94.

(Part IV.—Management and Administration.)

(4) If an appointment of an auditor is not made at an annual general meeting, the ¹[Central Government] may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(5) The following persons : that is to say,

- (i) a director or officer of the company ; and
- (ii) a partner of such director or officer ; and
- (iii) in the case of a company other than a private company, ²[not being the subsidiary company of a public company] any person in the employment of such director or officer ; ²[and
- (iv) any person indebted to the company ;]

shall not be appointed auditors of the company ²[and if any person after being appointed auditor becomes indebted to the company his appointment shall thereupon be terminated].

(6) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member of the company to the company not less than fourteen days before such annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to its members either by advertisement or in any other mode allowed by the articles not less than seven days before the annual general meeting :

Provided that, if after notice of the intention to nominate an auditor has been given to the company, an annual general meeting is called for a date fourteen days or less after the notice has been given, the requirements of this section as to time in respect of such a notice shall be deemed to have been satisfied, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this section, be sent or given at the same time as the notice of the annual general meeting.

(7) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the members of the company in general meeting, in which case such members at that meeting may appoint auditors.

(8) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.

(9) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors.

¹ Subs. by the A. O. for "L. G."

² Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 80.

(Part V.—Winding up.)

the opinion of the official liquidator capable of giving the information required ;—

- (d) who are or have been within the said year officers of or in the employment of a company, which is, or within the said year was, an officer of the company to which the statement relates.

(3) The statement shall be submitted within twenty-one days from the relevant date, or within such extended time as the official liquidator or the Court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the official liquidator or provisional liquidator, as the case may be, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official liquidator may consider reasonable, subject to an appeal to the Court.

(5) If any person, without reasonable excuse, knowingly and wilfully makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding one hundred rupees for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of an offence under section 182 of the Indian Penal Code and shall, on the application of the liquidator or of the official receiver, be punishable accordingly.

(8) In this section the expression “ the relevant date ” means, in a case where a provisional liquidator is appointed, the date of his appointment and, in a case where no such appointment is made, the date of the winding up order.]

¹[177B. (1) In a case where a winding up order is made, the official liquidator shall, as soon as practicable after receipt of the statement to be submitted under section 177A, and not later than four, or with the leave of the Court, six months from the date of the order, or in a case where the Court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the Court—

- (a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities, giving separately under the heading of assets particulars of—
- (i) cash and negotiable securities ;
 - (ii) debts due from contributories ;

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 96.

(Part IV.—Management and Administration.)

(2) This section shall not apply to a private company, nor to a company registered before the commencement of this Act :

¹[Provided that in the case of any public company whether registered before or after the commencement of this Act the trustees for holders of debentures shall have the right conferred by sub-section (1) on holders of preference shares and debentures of a company.]

Carrying on business with less than the legal minimum of members.

for on with n in of 147. If at any time the number of members of a company is reduced, in the case of a private company, below two, or in the case of any other company, below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be sued for the same without joinder in the suit of any other member.

Service and Authentication of Documents.

son 148. A document may be served on a company by leaving it at, or sending it by post to, the registered office of the company.

son 149. A document may be served on the registrar by sending it to him by post, or delivering it to him, or by leaving it for him at his office.

a- s. 150. A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company, and need not be under its common seal.

Tables, Forms and Rules as to prescribed matters.

on 151. (1) The forms in the Third Schedule or forms as near thereto as circumstances admit shall be used in all matters to which those forms refer.

(2) The ²[Central Government] may alter any of the tables and forms in the First Schedule, so that ³[it] does not increase the amount of fees payable to the registrar in the said Schedule mentioned, and may alter or add to the forms in the Third Schedule.

(3) Any such table or form, when altered, shall be published in the ⁴[Official Gazette], and on such publication shall have effect as if enacted in this Act,

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 82.

² Subs. by the A. O. for " G. G. in C. "

³ Subs. by the A. O. for " he ".

⁴ Subs. by the A. O. for " Gazette of India ".

(Part V.—Winding up.)

(5) The committee of inspection shall have the right to inspect the accounts of the official liquidator at all reasonable times.

(6) The committee shall meet at such times as they may from time to time appoint, and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(7) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(8) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(9) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(10) A member of the committee may be removed by an ordinary resolution at a meeting of creditors if he represents creditors, or of contributories if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.

(11) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(12) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.]

179. The official liquidator shall have power, with the sanction of the Court, to do the following things :—

- (a) to institute or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company ;
- (b) to carry on the business of the company so far as may be necessary for the beneficial winding up of the same ;
- (c) to sell the immoveable and moveable property of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels ;
- (d) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal ;
- (e) to prove, rank and claim in the insolvency of any contributory, for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors ;

(Part IV.—Management and Administration.)

company issued after the order has been made, or in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

(4) If a company makes default in complying with sub-section (3) the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(5) The Court may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against a company on such terms as it thinks fit and proper until the application is finally disposed of.]

¹[(6)] In this section the expression "company" means any company liable to be wound up under this Act ²[and for the purposes of this section unsecured creditors who may have filed suits or obtained decrees shall be deemed to be of the same class as other unsecured creditors.]

³[(7) An appeal shall lie from any order made by the Court exercising original jurisdiction under this section to the authority authorised to hear appeals from the decisions of the Court.]

⁴[153A. (1) Where an application is made to the Court under section 153 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as a 'transferor company') is to be transferred to another company (in this section referred to as 'the transferee company'), the Court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters :—

- (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company ;
- (b) the allotting or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person ;
- (c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company ;

¹ The original sub-section (3) was re-numbered as sub-section (6) by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 83.

² Ins. by s. 83, *ibid.*

³ Ins. by s. 84, *ibid.*

(Part V.—Winding up.)

Court with such vouchers and information as the Court may require, and the Court may at any time require the production of and inspect any books or accounts kept by the liquidator.

(5) When the account has been audited, one copy thereof shall be filed and kept by the Court, and the other copy shall be delivered to the registrar for filing, and each copy shall be open to the inspection of any creditor, or of any person interested.]

183. (1) Subject to the provisions of this Act the official liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting ¹[or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.]

(2) The official liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(3) The official liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising in the winding up.

(4) Subject to the provisions of this Act, the official liquidator shall use his own discretion in the administration of the assets of the company and in the distribution thereof among the creditors.

(5) If any person is aggrieved by any act or decision of the official liquidator, that person may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just in the circumstances.

Ordinary powers of Court.

184. (1) As soon as may be after making a winding up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

185. The Court may, at any time after making a winding up order, require any contributory for the time being settled on the list of contributories and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, or

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 100.

(Part IV.—Management and Administration.)

Provided that, where any such scheme or contract has been so approved at any time before the ¹commencement of the Indian Companies (Amendment) Act, 1936, the Court may by order, on an application made to it by the transferee company within two months after the commencement of that Act, authorise notice to be given under this section at any time within fourteen days after the making of the order, and this section shall apply accordingly, except that the terms on which the shares of the dissenting shareholder are to be acquired shall be such terms as the Court may by the order direct instead of the terms provided by the scheme or contract.

(2) Where a notice has been given by the transferee company under this section and the Court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the Court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section the expression 'dissenting shareholder' includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.]

Conversion of private company into public company.

²[154. (1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under the provisions of clause (13) of sub-section (1) of section 2, are required to be included in the articles of a company in order to constitute it a private company, the company, shall, as on the date of the alteration, cease to be a private company and shall, within a period of fourteen days after the said date, file with the registrar a prospectus or a statement in lieu of prospectus in the form and containing the particulars set out in the form marked II in the Second Schedule.

¹ The Act came into force on the 15th January, 1937.

² Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 85, for the original section.

(Part V.—Winding up.)

197. The Court, at any time either before or after making a winding up order on proof of probable cause for believing that a contributory is about to quit British India or otherwise to abscond, or to remove or conceal any of his property, for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested and his books and papers and moveable property to be seized, and him and them to be safely kept until such time as the Court may order.

198. Any powers by this Act conferred on the Court shall be in addition to, and not in restriction of, any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Enforcement of and Appeal from Orders.

199. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

200. Any order made by a Court for or in the course of the winding up of a company shall be enforced in any place in British India other than that in which such Court is situate, by the Court that would have had jurisdiction in respect of such company if the registered office of the company had been situate at such other place, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

201. Where any order made by one Court is to be enforced by another Court, a certified copy of the order so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order having been made; and thereupon the last-mentioned Court shall take the requisite steps in the matter for enforcing the order, in the same manner as if it were the order of the Court enforcing the same.

202. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding up of a company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction.

Voluntary winding up.

203. A company may be wound up voluntarily—

- (1) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;

(Part V.—Winding up.)

- (iii) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act ;
- (iv) in the case of a company limited by shares, no contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect to which he is liable as a present or past member ;
- (v) in the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up ;
- (vi) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract ;
- (vii) a sum due to any member of a company in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company payable to that member in a case of competition between himself and any other creditor not a member of the company ; but any such sum may be taken into account for the purpose of the final adjustments of the rights of the contributories among themselves.

(2) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

157. In the winding up of a limited company any director whether past or present, whose liability is, in pursuance of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company :

Provided that—

- (i) a past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up ;
- (ii) a past director shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office ;
- (iii) subject to the articles a director shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and

(Part V.—Winding up.)

of this Act unless it is delivered to the registrar for registration before the date mentioned in sub-section (1) of this section.

(3) A winding up in the case of which a declaration has been made and delivered in accordance with this section is in this Act referred to as 'a members' voluntary winding up', and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Act referred to as 'a creditors' voluntary winding up'.

Members' voluntary winding up.

¹ 208. The provisions contained in sections 208A to 208E, both inclusive, shall apply in relation to a members' voluntary winding up.

¹ 208A. (1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof.

¹ 208B. (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

¹ 208C. (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Act or not (in this section called "the transferee company"), the liquidator of the first-mentioned company (in the section called "the transferor company") may, with the sanction of a special resolution of that company conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

¹ See footnote to s. 207, *supra*.

(Part V.—Winding up.)

- (iii) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year :
- (iv) if the number of members is reduced, in the case of a private company, below two or, in the case of any other company, below seven :
- (v) if the company is unable to pay its debts :
- (vi) if the Court is of opinion that it is just and equitable that the company should be wound up.

163. ¹[(1)] A company shall be deemed to be unable to pay its debts—

- (i) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding five hundred rupees then due, has served on the company, ²[by causing the same to be delivered by registered post or otherwise] at its registered office, a demand under his hand requiring the company to pay the sum so due and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor ; or
- (ii) if execution or other process issued on a decree or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part ; or
- (iii) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

³[(2) The demand referred to in clause (i) of sub-section (1) shall be deemed to have been duly given under the hand of the creditor if it is signed by an agent or legal adviser duly authorised on his behalf, or in the case of a firm if it is signed by such agent or by a legal adviser or any one member of the firm on behalf of the firm.]

164. Where the High Court makes an order for winding up a company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court ; and thereupon such District Court shall, for the purpose of winding up the company, be deemed to be “ the Court ” within the meaning of this Act, and shall have, for the purposes of such winding up, all the jurisdiction and powers of the High Court.

165. If during the progress of a winding up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court having jurisdiction to wind up

¹ The original s. 163 was re-numbered as sub-section (1) of that section by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 88.

² Subs. by s. 88, *ibid.*, for “ by leaving the same ”.

³ Ins. by s. 88, *ibid.*

(Part V.—Winding up.)

of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this sub-section the liquidator shall be liable to a fine not exceeding fifty rupees for every day during which the default continues :

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the said return, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall be deemed to have been complied with.

(4) The registrar on receiving the account and either of the returns mentioned in sub-section (3) shall forthwith register them and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved :

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within twenty-one days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Creditors' voluntary winding up.

¹ 209. The provisions contained in sections 209A to 209H, both inclusive, shall apply in relation to a creditors' voluntary winding up.

¹ 209A. (1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised in the manner specified in sub-section (1) of section 206 for the publication of a notice under that sub-section.

(3) The directors of the company shall—

(a) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claims to be laid before the meeting of creditors to be held as aforesaid ; and

¹ See footnote to s. 207, *supra*.

(Part V.—Winding up.)

167. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

168. A winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up.

169. The Court may, at any time after the presentation of the petition for winding up a company under this Act, and before making an order for winding up the company, upon the application of the company or of any creditor or contributory of the company, restrain further proceedings in any suit or proceeding against the company, upon such terms as the Court thinks fit.

170. (1) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order or any other order that it deems just, but the Court shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(2) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

¹[(3) Where the Court makes an order for the winding up of a company it shall, except where a liquidator is appointed simultaneously, forthwith cause intimation thereof to be sent to the official receiver.]

171. When a winding up order has been made ²[or a provisional liquidator has been appointed] no suit or other legal proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

³[171A. (1) For the purposes of this Act, so far as it relates to the winding up companies by the Court, the term "official receiver" means the official receiver attached to the Court, or, if there is no such official receiver, then such person as the ⁴[Central Government] may, by notification in the ⁵[Official Gazette], appoint for the purpose.

(2) On the making of a winding up order; the official receiver shall become the official liquidator of the company and shall continue to act as such until his further continuance is terminated by an order of the Court.

(3) The official receiver shall as such official liquidator forthwith take into his custody and control all the books, documents and the assets of the company.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 90.

² Ins. by s. 91, *ibid.*

³ Ins. by s. 92, *ibid.*

⁴ Subs. by the A. O. for "L. G."

⁵ Subs. by the A. O. for "local official Gazette".

(Part V.—Winding up.)

to act as members of the committee, and on any application to the Court under this provision the Court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

¹ 209D. (1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators, and where the remuneration is not so fixed, it shall be determined by the Court.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no committee, the creditors, sanction the continuance thereof.

¹ 209E. If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by or by the direction of the Court, the creditors may fill the vacancy.

¹ 209F. The provisions of section 208C shall apply in the case of a creditor's voluntary winding up as in the case of a members' voluntary winding up, with the modification that the powers of the liquidator under said section shall not be exercised except with the sanction either of the Court or of the committee of inspection.

¹ 209G. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year, together with a statement in the prescribed form containing the prescribed particulars with respect to the position of the winding up.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding one hundred rupees.

¹ 209H. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors for the purpose of laying the account before the meetings and giving any explanation thereof.

(2) Each such meeting shall be called by advertisement specifying the time, place and object thereof and published one month at least before the meeting in the manner specified in sub-section (1) of section 206 for the publication of a notice under that sub-section.

(3) Within one week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy

¹ See-footnote to s. 207, *supra*.

(Part V.—Winding up.)

(6) A receiver shall not be appointed of assets in the hands of an official liquidator.

¹ 176. (1) Any official liquidator may resign or be removed by the Court on due cause shown.

(2) Any vacancy in the office of an official liquidator appointed by the Court shall be filled up by the Court ¹[and until the vacancy is so filled up the official receiver shall be and act as the official liquidator.]

(3) There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remunerations shall be distributed amongst them in such proportions as the Court directs.

177. The official liquidator shall be described by the style of the official liquidator of the particular company in respect of which he is appointed, and not by his individual name.

²[177A. (1) Where the Court has made a winding up order or appointed an official liquidator provisionally, there shall, unless the Court thinks fit to order otherwise and so orders, be made out and submitted to the official liquidator a statement as to the affairs of the company verified by an affidavit and containing the following particulars, namely:—

- (a) the assets of the company, stating separately the cash balance in hand and at the bank, if any;
- (b) the debts and liabilities;
- (c) the names, residences and occupations of the creditors stating separately the amount of secured debts and unsecured debts, and in the case of secured debts particulars of the securities, their value and the dates when they were given;
- (d) the debts due to the company and the names, residences and occupations of the persons from whom they are due and the amount likely to be realised therefrom.

(2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary, manager or other chief officer of the company, or by such of the persons hereinafter in this sub-section mentioned as the official liquidator, subject to the direction of the Court, may require to submit and verify the statement, that is to say, persons—

- (a) who are or have been directors or officers of the company;
- (b) who have taken part in the formation of the company at any time within one year before the relevant date;
- (c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 95.

² Ins. by s. 96, *ibid.*

(Part V.—Winding up.)

- (b) without the sanction referred to in clause (a), exercise any of the other powers by this Act given to the liquidator in a winding up by the Court ;
 - (c) exercise the power of the Court under this Act of settling a list of contributories, and the list of contributories shall be *pri facie* evidence of the liability of the persons named therein to be contributories ;
 - (d) exercise the power of the Court of making calls ;
 - (e) summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.
- (2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.
- (3) When several liquidators are appointed, any power given by this Act may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, any number not less than two.

¹ 213. (1) If from any cause whatever there is no liquidator acting, the Court may appoint a liquidator.

(2) The Court may, on cause shown, remove a liquidator and appoint another liquidator.

¹ 214. (1) The liquidator shall, within twenty-one days after his appointment, deliver to the registrar for registration a notice of his appointment in the form prescribed.

(2) If the liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

¹ 215. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

¹ 216. (1) The liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding up of a company or to exercise, as respects the enforcing of calls, staying of proceedings or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

¹ See footnote to s. 207, *supra*.

(Part V.—Winding up.)

- (iii) debts due to and securities, if any, available to the company ;
- (iv) moveable and immoveable properties belonging to the company ;

(v) unpaid calls ; and

(b) if the company has failed, as to the causes of the failure ; and

(c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The official liquidator may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matter which in his opinion it is desirable to bring to the notice of the Court.]

178. (1) The official liquidator ¹[whether appointed provisionally or not] shall take into his custody, or under his control, all the property, effects and actionable claims to which the company is or appears to be entitled.

²[(2) All the property and effects of the company shall be deemed to be in the custody of the Court as from the date of the order for the winding up of the company.]

³[178A. (1) The official liquidator shall within a month from the date of the order for the winding up of a company convene a meeting of the creditors of the company (as ascertained from the books and documents of the company) for the purpose of determining whether or not a committee of inspection shall be appointed to act with the liquidator, and who are to be members of the committee, if appointed.

(2) The official liquidator shall within a week from the date of the creditors' meeting convene a meeting of the contributories to consider the decision of the creditors and to accept the same with or without modifications.

(3) If the contributories do not accept the decision of the creditors in its entirety, it shall be the duty of the official liquidator to apply to the Court for directions as to whether there shall be a committee of inspection and, if so, what shall be the composition of the committee, and who shall be members thereof.

(4) A committee of inspection appointed under this section shall consist of not more than twelve members being creditors and contributories of the company or persons holding general or special powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 97.

² Subs. by s. 97, *ibid.*, for the original sub-section.

³ Ins. by s. 98, *ibid.*

(Part V.—Winding up.)

regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence.

224. (1) Where an order is made for a winding up subject to supervision, the Court may by the same or any subsequent order appoint any additional liquidator.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

225. (1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

(2) Except as provided in sub-section (1), and save for the purposes of section 196, any order made by the Court for a winding up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding up the company by the Court, and shall confer full authority on the Court to make calls or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding up the company altogether by the Court.

(3) In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidator, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding up subject to the supervision of the Court.

226. Where an order has been made for the winding up of a company subject to supervision, and an order is afterwards made for winding up by the Court, the Court may, by the last-mentioned order or by any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidator in the winding up by the Court.

Supplemental Provisions.

227. (1) In the case of voluntary winding up every transfer of shares, except transfers made to or with the sanction of the liquidator, and every alteration in the status of the members of the company made after the commencement of the winding up shall be void.

(2) In the case of a winding up by or subject to the supervision of the Court, every disposition of the property (including actionable claims) of the company, and every transfer of shares, or alteration in the status of its members, made after the commencement of the winding up shall, unless the Court otherwise orders, be void.

(Part V.—Winding up.)

- (f) to draw, accept, make and indorse any bill of exchange, hundi or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill, hundi, or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business ;
- (g) to raise on the security of the assets of the company any money requisite ;
- (h) to take out, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company ; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself : Provided that nothing herein empowered shall be deemed to affect the rights, duties and privileges of any Administrator General.
- (i) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

180. The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

181. The official liquidator may, with the sanction of the Court, appoint an advocate, attorney or pleader entitled to appear before the Court to assist him in the performance of his duties : Provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

182. ¹[(1)] The official liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and ¹ of such other matters as may be prescribed, and any creditor or contributory is may, subject to the control of the Court, personally or by his agent inspect any such books.

²[(2)] Every official liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, present to the Court an account of his receipts and payments as such liquidator.

(3) The account shall be in the prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.

(4) The Court shall cause the account to be audited in such manner as it thinks fit and for the purpose of the audit the liquidator shall furnish the

¹ The original s. 182 was re-numbered as sub-section (1) of that section by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 99.

² Sub-sections (2) to (5) were added, *ibid*.

(Part V.—Winding up.)

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) The date hereinbefore in this section referred to is—

(a) in the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding up order; and

(b) in any other case, the date of the commencement of the winding up.

¹ [230A. (1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the company, notwithstanding that he had endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the Court and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the Court, disclaim the property:

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests, and liabilities of the company, and the

¹ Ins. by the Indian Companies (Amendment) Act, 1926 (22 of 1926) s. 107

(Part V.—Winding up.)

not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination.

196. (1) When an order has been made for winding up a company by the Court, and the official liquidator has applied to the Court stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company or by any director or other officer of the company, in relation to the company since its formation, the Court may, after consideration of the application, direct that any person who has taken any part in the promotion or formation of the company, or has been a director, manager or other officer of the company shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director, manager or other officer thereof.

(2) The official liquidator shall take part in the examination, and for that purpose may, if specially authorised by the Court in that behalf, employ such legal assistance as may be sanctioned by the Court.

(3) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the Court.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(6) A person ordered to be examined under this section may at his own cost employ any person entitled to appear before the Court, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him: Provided that if he is, in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him in civil proceedings, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

(9) An examination under this section may, if the Court so directs, and subject to any rules in this behalf, be held before any District Judge or before any officer of the High Court, being an official referee, master, registrar or deputy registrar, and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held.

(Part V.—Winding up.)

236. If any director, manager, officer or contributory of any company being wound up destroys, mutilates, alters or falsifies or fraudulently secretes any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register book of account or document belonging to the company with intent to defraud or deceive any person, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

¹[237. (1) If it appears to the Court in the course of a winding up by, or subject to the supervision of, the Court that any past or present director, manager or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the Court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator either himself to prosecute the offender or to refer the matter to the registrar.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager or other officer, or any member of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the registrar and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator relating to the matter in question, as he may require.

(3) Where any report is made under sub-section (2) to the registrar, he may, if he thinks fit, refer the matter to the ²[Central Government] for further inquiry, and the ²[Central Government] shall thereupon investigate the matter and may, if they think it expedient, apply to the Court for an order conferring on any person designated by the ²[Central Government] for the purpose with respect to the company concerned all such powers of investigating the affairs of the company as are provided by this Act in the case of a winding up by the Court.

(4) If on any report to the registrar under sub-section (2) it appears to him that the case is not one in which proceedings ought to be taken by him, he shall inform the liquidator accordingly, and thereupon, subject to the previous sanction of the Court, the liquidator may himself take proceedings against the offender.

(5) If it appears to the Court in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the registrar, the Court may, on the application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 110, for the original section.

² Subs. by the A. O. for "L. G."

(Part V.—Winding up.)

(2) if the company resolves by special resolution that the company be wound up voluntarily ; -

(3) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up ;

¹[and the expression 'resolution for voluntarily winding up' when used hereafter in this Part means a resolution passed under clause (1), clause (2) or clause (3) of this section.]

204. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution ²[for voluntarily winding up].

205. When a company is wound up voluntarily, the company shall, from the commencement of the winding up cease to carry on its business, except so far as may be required for the beneficial winding up thereof :

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

206. (1) Notice of any special resolution or extraordinary resolution for winding up a company voluntarily shall be given by the company within ten days of the passing of the same by advertisement in the ³[Official Gazette], and also in some newspaper (if any) circulating in the district where the registered office of the company is situate.

(2) If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees for every day during which the default continues ; and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to a like penalty.

⁴[207. (1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out, to make a declaration verified by an affidavit to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within a period, not exceeding three years, from the commencement of the winding up.

(2) Such declaration shall be supported by a report of the company's auditors on the company's affairs, and shall have no effect for the purposes

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 103.

² Subs. by s. 104, *ibid.*, for "authorising the winding up".

³ Subs. by the A. O. for "local official Gazette".

⁴ Ss. 207 to 218 were subs. for the original ss. 207 to 219 by Act 22 of 1936, s. 105.

(Part V.—Winding up.)

except such part as has been disposed of in the ordinary way of the business of the company ; or

- (b) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the company as is in his custody or under his control, and which he is required by law to deliver up ; or
- (c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up ; or
- (d) within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the company to the value of one hundred rupees or upwards or conceals any debt due to or from the company ; or
- (e) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the company to the value of one hundred rupees or upwards ; or
- (f) makes any material omission in any statement relating to the affairs of the company ; or
- (g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof ; or
- (h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the company ; or
- (i) within twelve months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or paper affecting or relating to the property or affairs of the company ; or
- (j) within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company ; or
- (k) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any document affecting or relating to the property or affairs of the company ; or
- (l) after the commencement of the winding up or at any meeting of the creditors of the company within twelve months next before the commencement of the winding up, attempts to account for any part of the property of the company by fictitious losses or expenses ; or

(Part V.—Winding up.)

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator and left at the registered office of the company within seven days after the passing of the special resolution, he may require the liquidator either to abstain from carrying the resolution into effect or to purchase his interest at a price to be determined by agreement or by arbitration in manner hereafter provided.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators, but if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

(6) The provisions of the Indian Arbitration Act, 1899, other than those IX restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations in pursuance of this section.

¹ 208D. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up and of each succeeding year, or as soon thereafter as may be convenient within ninety days of the close of the year, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year and a statement in the prescribed form containing the prescribed particulars with respect to the position of the liquidation.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding one hundred rupees.

¹ 208E. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement specifying the time, place and object thereof, and published one month at least before the meeting in the manner specified in sub-section (1) of section 206 for publication of a notice under that sub-section.

(3) Within one week after the meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding

¹ See footnote to s. 207, *supra*.

(Part V.—Winding up.)

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by the articles.

240. Where any company is being wound up, all documents of the company and of the liquidators shall, as between the contributories of the company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded. Docu
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241. After an order for a winding up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its documents as the Court thinks just, and any documents in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise. Inspe
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242. (1) When a company has been wound up and is about to be dissolved, the documents of the company and of the liquidators may be disposed of as follows (that is to say):— Dispo
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(a) in the case of a winding up by or subject to the supervision of the Court, in such way as the Court directs ;

(b) in the case of a voluntary winding up, in such way as the company by extraordinary resolution directs.

(2) After three years from the dissolution of the company, no responsibility shall rest on the company or the liquidators, or any person to whom the custody of the documents has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein.

243. (1) Where a company has been dissolved, the Court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved. Power
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(2) It shall be the duty of the person on whose application the order was made, within twenty-one days after the making of the order, to file with the registrar a certified copy of the order, and if that person fails so to do, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

244. (1) Where a company is being wound up, if the winding up is not concluded within one year after its commencement, the liquidator shall, ¹[once in each year and at intervals of not more than twelve months], until the winding up is concluded, ²[file in Court or with the registrar, as the case may be,] a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation. Infor
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¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 112, for "at such intervals as may be prescribed".

² Subs. by s. 112, *ibid.*, for "file with the registrar".

(Part V.—Winding up.)

(b) appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors, held in pursuance of sub-section (1) of this section, shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made—

(a) by the company in complying with sub-sections (1) and (2) ;

(b) by the directors of the company in complying with sub-section (3) ;

(c) by any director of the company in complying with sub-section (4) ;

the company, directors or director, as the case may be, shall be liable to a fine not exceeding one thousand rupees and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

^t ^{r.} ¹ **209B.** The creditors and the company at their respective meetings mentioned in section 209A may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any nominated by the company shall be liquidator :

Provided that in the case of different persons being nominated, any director, member or creditor of the company may, within seven days after the date on which the nomination was made by the creditors, apply to the Court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

^t ^e ^{u.} ¹ **209C.** The creditors at the meeting to be held in pursuance of section 209A or at any subsequent meeting may, if they think fit, appoint a committee of inspection consisting of not more than five persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding five in number :

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the Court otherwise directs, be qualified

¹ See footnote to s. 207, *supra*.

(Part V.—Winding up.)

(2) All Courts, Judges, Justices, Commissioners, and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Part.

Rules.

246. (1) The High Court may, from time to time, make rules consistent with this Act and with the Code of Civil Procedure, 1908, concerning the mode of proceedings to be had for winding up a company in such Court and in the Courts subordinate thereto, ¹[and for voluntary winding up (both members and creditors), for the holding of meetings of creditors and members in connection with proceedings under section 153 of this Act,] and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-divisions of the shares of a company ¹[and generally for all applications to be made to the Court under the provisions of this Act] ²[and shall make rules providing for all matters relating to the winding up of companies which, by this Act, are to be prescribed].

(2) Without prejudice to the generality of the foregoing power, the High Court may by such rules enable or require all or any of the powers and duties conferred and imposed on the Court by this Act, in respect of the matters following, to be exercised or performed by the official liquidator, and subject to the control of the Court, that is to say, the powers and duties of the Court in respect of—

- (a) holding and conducting meetings to ascertain the wishes of creditors and contributories ;
- (b) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets ;
- (c) requiring delivery of property or documents to the liquidator ;
- (d) making calls ;
- (e) fixing a time within which debts and claims must be proved :

Provided that the official liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without the special leave of the Court.

Removal of defunct Companies from Register.

247. (1) Where the registrar has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 114.

² Ins. by the Repealing and Amending Act, 1915 (11 of 1915), s. 2 and Sch I.

(Part V.—*Winding up.*)

not sent or the return is not made in accordance with this sub-section the liquidator shall be liable to a fine not exceeding fifty rupees for every day during which the default continues :

Provided that, if a quorum (which for the purposes of this section shall be two persons) is not present at either such meeting, the liquidator shall, in lieu of such return, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The registrar on receiving the account and in respect of each such meeting either of the returns mentioned in sub-section (3) shall forthwith register them, and on the expiration of three months from the registration thereof the company shall be deemed to be dissolved :

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within ten days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails to do so he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Members' or creditors' voluntary winding up.

¹ 210. The provisions contained in sections 211 to 218, both inclusive, shall apply to every voluntary winding up whether a members' or a creditors' winding up.

¹ 211. Subject to the provisions of this Act as to preferential payments, the property of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu* and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

¹ 212. (1) The liquidator may—

(a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and in the case of a creditors' voluntary winding up, with the sanction of either the Court or the committee of inspection, exercise any of the powers given by clauses (d), (e), (f) and (h) of section 179 to a liquidator in a winding up. The exercise by the liquidator of the powers given by this clause shall be subject to the control of the Court and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers ;

¹ See footnote to s. 207, *supra*.

(Part V.—Winding up. Part VI.—Registration Office and Fees.)

of some director, manager or other officer of the company, or, if there is no director, manager or other officer of the company whose name and address are known to the registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

PART VI.

REGISTRATION OFFICE AND FEES.

248. (1) For the purposes of the registration of companies under this Act, there shall be offices at such places as the ¹[Central Government] thinks fit, and no company shall be registered except at an office within the province in which, by the memorandum, the registered office of the company is declared to be established.

(2) The ¹[Central Government] may appoint such registrars and assistant registrars as it thinks necessary for the registration of companies under this Act, and may make regulations with respect to their duties.

(3) The salaries of the persons appointed under this section shall be fixed by the ¹[Central Government].

(4) The ¹[Central Government] may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

(5) Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the ¹[Central Government], not exceeding one rupee for each inspection; and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the registrar on payment for the certificate, certified copy or extract, of such fees as the ¹[Central Government] may appoint, not exceeding three rupees for a certificate of incorporation, and not exceeding six annas for every hundred word or fractional part thereof required to be copied.

(6) Whenever any act is by this Act directed to be done to or by the registrar it shall, until the ¹[Central Government] otherwise directs, be done to or by the existing registrar of joint-stock companies or in his absence to or by such person as the ¹[Central Government] may for the time being authorise but, in the event of the ¹[Central Government] altering the constitution of the existing registry offices or any of them, any such act shall be done to or by such officer and at such place with reference to the local situation of the registered offices of the companies to be registered as the ¹[Central Government] may appoint.

249. (1) There shall be paid to the registrar in respect of the several matters mentioned in Table B in the First Schedule the several fees therein specified or such smaller fees as the ²[Central Government] may direct.

¹ Subs. by the A. O. for "L. G."

² Subs. by the A. O. for "G. G. & O."

(Part V.—Winding up.)

228. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of insolvency) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or for some other reason do not bear a certain value.

229. In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent; and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

230. (1) In a winding up there shall be paid in priority to all other debts—

(a) all revenue, taxes, cesses and rates, whether payable to the Crown or to a local authority, due from the company at the date hereinafter mentioned and having become due and payable within the twelve months next before that date;

(b) all wages or salary of any clerk or servant in respect of service rendered to the company within the two months next before the said date, not exceeding one thousand rupees for each clerk or servant;^{1*}

(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piecework, in respect of services rendered to the company within the two months next before the said date;

²[(d) compensation payable under the Workmen's Compensation Act, 1923, in respect of the death or disablement of any officer VIII of or employee of the company;

(e) all sums due to any employee from a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the employees maintained by the company; and

(f) the expenses of any investigation held in pursuance of clause (iv) of section 138 of this Act].

(2) The foregoing debts shall—

(a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportion; and

¹ The word "and" rep. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 106.

² Ins., *ibid.*

(Part VIII.—Companies authorised to register under this Act.)

pany, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number ;

- (2) a copy of any Act of Parliament, ¹[Indian law], Royal Charter, Letters Patent, deed of settlement, contract of co-partnery or other instrument constituting or regulating the company ; and
- (3) if the company is intended to be registered as a limited company, a statement specifying the following particulars (that is to say) :—
 - (a) the nominal share capital of the company and the number of shares into which it is divided or the amount of stock of which it consists ;
 - (b) the number of shares taken and the amount paid on each share ;
 - (c) the name of the company, with the addition of the word "Limited" as the last word thereof ; and
 - (d) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

256. Before the registration in pursuance of this Part of any company not being a joint-stock company, there shall be delivered to the registrar—

- (1) a list showing the names, addresses and occupations of the directors of the company ; and
- (2) a copy of any Act of Parliament, ¹[Indian law], Letters Patent, deed of settlement, contract of co-partnery or other instrument constituting or regulating the company ; and
- (3) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

257. The list of members and directors and any other particulars relating to the company required to be delivered to the registrar shall be duly verified by the declaration of any two or more directors or other principal officers of the company.

258. The registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint-stock company as hereinbefore defined.

259. (1) Where a banking company, which was in existence on the first day of May eighteen hundred and eighty-two, proposes to register as a limited company, it shall, at least thirty days before so registering, give notice of its intention so to register to every person who has a banking account with the company, either by delivery of the notice to him, or by posting it to him at or delivering it at, his last known address.

(Part V.—Winding up.)

property of the company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The Court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of twenty-eight days after the receipt of the application or such further period as may be allowed by the Court, given notice to the applicant that he intends to apply to the Court for leave to disclaim, and in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the company shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The Court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Act in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a lease-hold nature, the Court shall not make a vesting order in favour of any person claiming under the company whether as under-lessee or as mortgagee except upon the terms of making that person—

- (a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

(Part VIII.—Companies authorised to register under this Act.)

or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidence as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles ;

(ii) all the provisions of this Act shall apply to the company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows (that is to say) :—

(a) the regulations in Table A in the First Schedule shall not apply unless adopted by special resolution ;

(b) the provisions of this Act relating to the numbering of shares shall not apply to any joint-stock company whose shares are not numbered ;

(c) subject to the provisions of this section, the company shall not have power to alter any provision contained in any Act of Parliament or ¹[Indian law] relating to the company ;

(d) subject to the provisions of this section, the company shall not have power, without the sanction of the ²[Central Government], to alter any provision contained in any Letters Patent relating to the company ;

(e) the company shall not have power to alter any provision contained in a Royal Charter or Letters Patent with respect to the objects of the company ;

(f) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability ; or to pay or contribute to the payment of the cost and expenses of winding up the company, so far as relates to such debts or liabilities as afore-said ; and every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability

¹ Subs. by the A. O. for " Act of the G. G. in C."

² Subs. by the A. O. for " G. G. in C."

(Part V.—Winding up.)

234. (1) The liquidator may, with the sanction of the Court when the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company in the case of a voluntary winding up, do the following things or any of them :

- (i) pay any classes of creditors in full ;
- (ii) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the company may be rendered liable ;
- (iii) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) The exercise by the liquidator of the powers of this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers.

235. (1) Where, in the course of winding up a company, it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager or liquidator, or any officer of the company has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory ¹[made within three years from the date of the first appointment of a liquidator in the winding up or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer,] examine into the conduct of the promoter, director, manager, liquidator or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

(2) This section shall apply notwithstanding that the offence is one for which the offender may be criminally responsible.

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¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 109.

² Sub-section (3) *rep.*, *ibid.*

(Part V.—Winding up.)

being made accordingly, the provisions of this section shall have effect as though the report has been made in pursuance of the provisions of sub-section (2).

(6) If, where any matter is reported or referred to the registrar under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall place the papers before the Advocate General or the public prosecutor and if advised to do so institute proceedings, and it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give him all assistance in connection with the prosecution which he is reasonably able to give:

Provided that no prosecution shall be undertaken without first giving the accused person an opportunity of making a statement in writing to the registrar and of being heard thereon.

For the purposes of this sub-section, the expression 'agent' in relation to a company shall be deemed to include any banker or legal adviser of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(7) If any person fails or neglects to give assistance in manner required by sub-section (6), the Court may, on the application of the registrar, direct that person to comply with the requirements of the said sub-section, and where any such application is made with respect to a liquidator, the Court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally.]

238. If any person, upon any examination upon oath authorised under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

¹[**238A.** (1) If any person, being a past or present director, managing agent, manager or other officer of a company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the Court or voluntarily, or is subsequently ordered to be wound up by the Court or subsequently passes a resolution for voluntary winding up—

(a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof,

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 111.

(Part IX.—Winding up of Unregistered Companies.)

- (c) if execution or other process issued on a decree or order obtained in any Court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied ; and
- (d) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) Nothing in this Part shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

¹[(3) Where a company incorporated outside British India which has been carrying on business in British India ceases to carry on business in British India it may be wound up as an unregistered company under this Part, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the company under which it was incorporated.]

272. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of any contributory dying or being adjudged insolvent, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and to the assignees of insolvent contributories shall apply.

273. The provisions of this Act with respect to staying and restraining suits and legal proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to suits and legal proceedings against any contributory of the company.

274. Where an order has been made for winding up an unregistered company, no suit or other legal proceedings shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 116.

(Part V.—Winding up.)

- (m) has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for ; or
- (n) within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for ; or
- (o) within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing is in the ordinary way of the business of the company ; or
- (p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up ;

he shall be punishable, in the case of the offences mentioned respectively in clauses (m), (n) and (o) of this sub-section, with imprisonment for a term not exceeding five years, and, in the case of any other offence, with imprisonment for a term not exceeding two years :

Provided that it shall be a good defence to a charge under any of clauses (b), (c), (d), (f), (n) and (o), if the accused proves that he had no intent to defraud, and to a charge under any of clauses (a), (h), (i) and (j), if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under clause (o) of sub-section (1) every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in such circumstances as aforesaid shall be punishable with imprisonment for a term not exceeding three years.]

239. (1) Where by this Act the Court is authorised in relation to winding up to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(Part X.—Companies established outside British India.)

and, in the event of any alteration being made in any such instrument or in such address or in the directors or managers or in the names or addresses of any such persons as aforesaid, the company shall, within the prescribed time, file with the registrar a notice of the alteration.

(2) Any process or notice required to be served on the company shall be sufficiently served, if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(3) Every company to which this section applies shall in every year file with the registrar of the province in which the company has its principal place of business—

- (i) in a case where by the law, for the time being in force, of the country in which the company is incorporated such company is required to file with the public authority an annual balance-sheet,—a copy of that balance-sheet ¹[and if the balance-sheet does not contain all the information provided for in the form marked H in the Third Schedule, such supplementary statements as shall furnish such information]; or
- (ii) in a case where no such provision is made by the law, for the time being in force, of the country in which the company is incorporated,—such a statement in the form of a balance-sheet as such company would, if it were a company formed and registered under this Act, be required to file in accordance with the provisions of this Act :

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(4) Every company to which this section applies and which uses the word “Limited” as part of its name, shall—

- (a) in every prospectus inviting subscriptions for its shares or debentures in British India, state the country in which the company is incorporated ; and
- (b) conspicuously exhibit on every place where it carries on business in British India the name of the company and the country in which the company is incorporated in letters easily legible in English characters and also, if any place where it carries on business is beyond the local limits of the ordinary original civil jurisdiction of a High Court, in the characters of one of the vernacular languages used in that place ; and
- (c) have the name of the company and of the country in which the company is incorporated mentioned in legible English characters in all bill heads and letter paper, and in all notices, advertisements and other official publications of the company.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 117.

² The proviso to sub-section (3) rep. by s. 117, *ibid.*

(Part V.—Winding up.)

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom ; but any person untruthfully so stating himself to be a creditor or contributory shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code, and shall be punishable accordingly on the application of the liquidator.

(3) If a liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding five hundred rupees for each day during which the default continues.

¹[(4) When the statement is filed in Court a copy shall simultaneously be filed with the registrar and shall be kept by him along with the other records of the company.]

²[244A. (1) Every liquidator of a company which is being wound up by the Court shall, in such manner and at such times as may be prescribed, pay the money received by him into a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 : II

Provided that if the Court is satisfied that for the purpose of carrying on the business of the company or of obtaining advances or for any other reason it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Court may authorise the liquidator to make his payments into or out of such other bank as the Court may select and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than ten days a sum exceeding five hundred rupees or such other amount as the Court may in any particular case authorise him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of twenty per cent. per annum and shall be liable to disallowance of all or such part of his remuneration as the Court may think just and to be removed from his office by the Court and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up shall open a special banking account and pay all sums received by him as liquidator into such account.]

³245. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in British India, or elsewhere within the dominions of His Majesty, before any Court, Judge or person lawfully authorised to take and receive affidavits, or in any part of India other than British India before any Court authorised or continued by ³[the Central Government or the Crown Representative], or in any place outside His Majesty's dominions before any of His Majesty's Consuls or Vice-Consuls.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 112.

² Ins. by s. 113, *ibid.*

³ Subs. by the A. O. for " the G. G. in C. "

(Part X.—Companies established outside British India. Part XA.—Banking Companies.)

Provided that in the event of failure to include in a prospectus a statement with respect to the matters specified in clause (n) of sub-section (1) of section 93, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(4) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act, apart from this section.

¹277C. (1) It shall not be lawful for any person to go from house to house offering shares of a company incorporated outside India for subscription or purchase to the public or any member of the public.

(2) In this sub-section the expression 'house' shall not include an office used for business purposes.

(3) Any person acting in contravention of this section shall be liable to a fine not exceeding rupees one hundred.

¹277D. The provisions of sections 109 to 117, both inclusive, and 120 to 125, both inclusive, shall extend to charges on properties in British India which are created and to charges on property in British India which is acquired after the ²commencement of the Indian Companies (Amendment) Act, 1936, by a company incorporated outside British India which has an established place of business in British India.

¹277E. The provisions of sections 118 and 119 shall *mutatis mutandis* apply to the case of all companies incorporated outside British India but having an established place of business in British India and the provisions of section 130 shall apply to such companies to the extent of requiring them to keep at their principal place of business in British India the books of account required by that section with respect to money received and expended, sales and purchases made, and assets and liabilities in relation to its business in British India.]

³[PART XA.]

BANKING COMPANIES.

³[277F. A 'banking company' means a company which carries on as its principal business the accepting of deposits of money on current account

¹ See footnote 2 on p. 380, *supra*.

² The Act came into force on the 15th January, 1937.

³ Part XA consisting of sections 277F to 277N was ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936) s. 119.

(Part XA.—Banking Companies.)

acquire or the acquisition of which in the opinion of the company is likely to facilitate the realisation of any securities held by the company or to prevent or diminish any apprehended loss or liability ;

- (8) managing, selling and realising all property moveable and immoveable which may come into the possession of the company in satisfaction or part satisfaction of any of its claims ;
- (9) acquiring and holding and generally dealing with any property and any right, title or interest in any property moveable or immoveable which may form part of the security for any loans or advance or which may be connected with any such security ;
- (10) undertaking and executing trusts ;
- (11) undertaking the administration of estates as executor, trustee or otherwise ;
- (12) taking or otherwise acquiring and holding shares in any other company having objects similar to those of the company ;
- (13) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or *ex-employees* of the company or the dependents or connections of such persons ; granting pensions and allowances and making payments towards insurance ; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object ;
- (14) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company ;
- (15) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company ;
- (16) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this section ;
- (17) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company.]

¹[277G. (1) No company formed after the ²commencement of the Indian Companies (Amendment) Act, 1936, for the purpose of carrying on business as a banking company or which uses as part of the name under which it proposes to carry on business the word ' bank ', ' banker ' or ' banking ' shall be registered under this Act, unless the memorandum limits the objects of the company to the carrying on of the business of accepting deposits of money

¹ See footnote 3 on page 383, *supra*.

² The Act came into force on the 15th January, 1937.

(Part VI.—Registration Office and Fees. Part VII.—Application of Act to Companies formed and registered under former Companies Acts.)

(2) All fees paid to the registrar in pursuance of this Act shall be accounted for to the Crown.

¹[249A. (1) If a company, having made default in complying with any provision of this Act which requires it to file with, deliver or send to the registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the Court may, on an application made to the Court by any member or creditor of the company or by the registrar, make an order directing the company and any officer thereof to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or its officers in respect of any such default as aforesaid.]

PART VII.

APPLICATION OF ACT TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ACTS.

250. In the application of this Act to existing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares; in the case of a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by guarantee; and, in the case of a company, other than a limited company, as if the company had been formed and registered under this Act as an unlimited company:

Provided that—

- (1) nothing in Table A in the First Schedule shall apply to a company formed and registered under Act XIX of 1857 and Act VII of 1860, or either of them, or under the Indian Companies Act, 1866, or the Indian Companies Act, 1882; VI
- (2) reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, or under the Indian Companies Act, 1866, or the Indian Companies Act, 1882, as the case may be. VI

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 115.

(Part XA.—Banking Companies.)

[277L. (1) Every banking company shall maintain by way of cash reserve in cash a sum equivalent to at least one and a half per cent. of the time liabilities and five per cent. of the demand liabilities of such company and shall file with the registrar before the tenth day of every month a statement of the amount so held on the Friday of each week of the preceding month with particulars of the time and demand liabilities of each such day.

(2) For the purposes of sub-section (1) 'demand liabilities' means liabilities which must be met on demand, and 'time liabilities' means liabilities which are not demand liabilities.

(3) Nothing in this section or in section 277K shall apply to a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934.

(4) If default is made in complying with the requirements of section 277G, section 277H, section 277J, section 277K or section 277M or with the requirements of this section as to the maintenance of a cash reserve, every director or other officer of the company who is knowingly and wilfully a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues, and if default is made in complying with the requirements of this section as to the filing of the statement referred to in sub-section (1), to a fine not exceeding one hundred rupees for every day during which the default continues.]

[277M. A banking company shall not form or hold shares, in any subsidiary company except a subsidiary company of its own formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor, trustee or otherwise and such other purposes set forth in section 277F as are incidental to the business of accepting deposits of money on current account or otherwise.]

[277N. (1) The Court may on the application of a banking company which is temporarily unable to meet its obligations make an order staying the commencement or continuance of all actions and proceedings against the company for a fixed period of time on such terms and conditions as it shall think fit and proper and may from time to time extend the period.

(2) No such application shall be maintainable unless accompanied by a report of the registrar :

Provided, however, the Court may, for sufficient reasons, grant interim relief, even if the application is not accompanied by such report.

(3) The registrar shall for the purposes of his report be entitled at the cost of the company to investigate the financial condition of the company and for such purpose to have the books and documents of the company examined by an accountant holding a certificate issued under section 144.]

¹ See footnote 3 on page 383, *supra*.

(Part VIII.—Companies authorised to register under this Act.)

- (c) a company that is not a joint-stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares ;
- (d) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the articles) at a general meeting summoned for the purpose ;
- (e) where a company not having the liability of its members limited by Act of Parliament or ¹[Indian law] or by Letters Patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting ;
- (f) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves such amount as may be required not exceeding a specified amount.

(3) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the articles.

(4) A company registered under the Indian Companies Act, 1882, shall VI not be registered in pursuance of this section.

254. For the purposes of this Part as far as relates to registration of companies as companies limited by shares, a joint-stock company means a company having a permanent paid up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons ; and such a company, when registered with limited liability under this Act, shall be deemed to be a company limited by shares.

255. Before the registration in pursuance of this Part of a joint-stock company, there shall be delivered to the registrar the following documents (that is to say) :—

- (1) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the com-

¹ Subs. by the A. O. for " Act of the G. G. in C."

(Part XI.—Supplemental.)

(3) The persons to whom this section applies are the following :—

- (a) directors of a company ;
- (b) managers and managing agents of a company ;
- (c) officers of a company ;
- (d) persons employed by a company as auditors, whether they are or are not officers of the company.]

282. Whoever in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Pen false men

1[282A. Any director, managing agent, manager or other officer or employee of a company who wrongfully obtains possession of any property of a company, or having any such property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or directed in the articles and authorised by this Act, shall, on the complaint of the company or any creditor or contributory thereof, be punishable with fine not exceeding one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied or in default to suffer imprisonment for a period not exceeding two years. Pen wrong with of p

282B. (1) All moneys or securities deposited with a company by its employees in pursuance of their contracts of service with the company shall be kept or deposited by the company in a special account to be opened by the company for the purpose in a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, and no portion thereof shall be utilised by the company except for the purposes agreed to in the contract of service. Pen mis-tion ritie ploy

(2) Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund (whether by the company or by the employees) or accruing by way of interest or otherwise to such fund after the commencement of the Indian Companies 1936. (Amendment) Act, 1936, shall be invested, and shall be invested only in securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trusts Act, 1882, and all moneys belonging to such fund at the commencement of the said Act which are not so invested shall be invested in such securities by annual instalments not exceeding ten in number and not less in amount in any year than one-tenth of the whole amount of such moneys. 82.

(3) Notwithstanding anything to the contrary in the rules of any fund to which sub-section (2) applies or in any contract between a company and its employees, no employee shall be entitled to receive in respect of such portion

¹ Ss. 282A and 282B were ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 121.

² The Act came into force on the 15th January, 1937.

(Part VIII.—Companies authorised to register under this Act.)

(2) If the company omits to give the notice required by this section, then as between the company and the person for the time being interested in the account in respect of which the notice ought to have been given, and so far as respects the account down to the time at which notice is given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

260. No fees shall be charged in respect of the registration in pursuance of this Part of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some Act of Parliament or ¹[Indian law] or by Letters Patent.

261. When a company registers in pursuance of this Part with limited liability, the word "Limited" shall form and be registered as part of its name.

262. On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under Table B in the First Schedule, the registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited, and thereupon the company shall be incorporated, and shall have perpetual succession and a common seal.

263. All property, moveable and immoveable, including all interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims as may belong to or be vested in a company at the date of its registration in pursuance of this Part, shall, on registration, pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

264. The registration of a company in pursuance of this Part shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred or any contract entered into, by, to, with, or on behalf of, the company before registration.

265. All suits and other legal proceedings which at the time of the registration of a company in pursuance of this Part are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of the company on any decree or order obtained in any such suit or proceeding; but, in the event of the property and effects of the company being insufficient to satisfy the decree or order, an order may be obtained for winding up the company.

266. When a company is registered in pursuance of this Part—

- (i) all provisions contained in any Act of Parliament, ¹[Indian law], deed of settlement, contract of co-partnery, Letters Patent,

¹ Subs. by the A. O. for "Act of the G. G. in C."

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint-holders shall be sufficient delivery to all.

7. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding eight annas, and on such terms, if any, as to evidence and indemnity as the directors think fit.

8. ¹[Except to the extent allowed by section 54A of the Indian Companies Act, 1913,] no part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien.

9. The company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person, for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien, if any, on a share shall extend to all dividends payable thereon.

10. The company may sell, in such manner as the director thinks fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or insolvency to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on shares.

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122.

(Part VIII.—Companies authorised to register under this Act.)

as aforesaid; and in the event of the death or insolvency of any contributory, the provisions of this Act with respect to the legal representatives and heirs of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply;

(iii) the provisions of this Act with respect to—

- (a) the registration of an unlimited company as limited;
- (b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up;

- (c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up;

shall apply notwithstanding any provisions contained in any Act of Parliament, ¹[Indian law], Royal Charter, deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company;

- (iv) nothing in this section shall authorise the company to alter any such provisions contained in any deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act;

- (v) nothing in this Act shall derogate from any lawful power of altering its constitution or regulations which may, by virtue of any Act of Parliament, ¹[Indian law], deed of settlement, contract of co-partnery, Letters Patent or other instrument constituting or regulating the company, be vested in the company.

267. (1) Subject to the provisions of this section, a company registered in pursuance of this Part may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

(2) The provisions of this Act with respect to confirmation by the Court and registration of an alteration of the objects of a company shall, so far as applicable, apply to an alteration under this section with the following modifications:—

- (a) there shall be substituted for the printed copy of the altered memorandum required to be filed with the registrar a printed copy of the substituted memorandum of articles; and

¹ Subs. by the A. O. for "Act of the G. G. in C."

(Part IX.—*Winding up of Unregistered Companies.* Part X.—*Companies established outside British India.*)

275. If an unregistered company has no power to sue and be sued in a common name, or if for any reason it appears expedient, the Court may, by the winding up order, or by any subsequent order, direct that all or any part of the property, moveable or immoveable, including all interests and rights in, to and out of property, moveable and immoveable, and including obligations and actionable claims as may belong to the company or to trustees on its behalf, is to vest in the official liquidator by his official name, and thereupon the property or the part thereof specified in the order shall vest accordingly; and the official liquidator may, after giving such indemnity (if any) as the Court may direct, bring or defend in his official name any suit or other legal proceeding relating to that property, or necessary to be brought or defended for the purposes of effectually winding up the company and recovering its property.

276. The provisions of this Part with respect to unregistered companies shall be in addition to, and not in restriction of, any provisions hereinbefore in this Act contained with respect to winding up companies by the Court, and the Court or official liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act; but an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

PART X.

COMPANIES ESTABLISHED OUTSIDE BRITISH INDIA.

277. (1) Every company incorporated outside British India, which at the commencement of this Act has a place of business in British India, and every such company which after the commencement of this Act establishes such a place of business within British India, shall, within six months from the commencement of this Act or within one month from the establishment of such place of business, as the case may be, file with the registrar in the province in which such place of business is situated,—

- (a) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;
- (b) the full address of the registered or principal office of the company;
- (c) a list of the directors and managers (if any) of the company;
- (d) the names and addresses of some one or more persons resident in British India authorised to accept on behalf of the company service of process and any notices required to be served on the company;

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

44. The company may, by ¹[ordinary resolution],—

- (a) consolidate and divide its share capital into shares of larger amount than its existing shares ;
- (b) by sub-division of its existing shares or any of them, divide the whole or any part of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph (d) of sub-section (1) of section 50 of the Indian Companies Act, 1913 ;
- (c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person ;

* * * * *

³[44A. The company may, by special resolution, reduce its share capital in any manner and with, and subject to any incident authorised and consent required, by law.]

General Meetings.

45. The statutory general meeting of the company shall be held within the period required by section 77 of the Indian Companies Act, 1913.

46. A general meeting shall be held ⁴[within eighteen months from the date of its incorporation and thereafter once at least in every year] at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

47. The above-mentioned general meetings shall be called ordinary meetings ; all other general meetings shall be called extraordinary.

48. The directors may, whenever they think fit, call an extraordinary general meeting, and extraordinary general meetings shall also be called on such requisition, or in default, may be called by such requisitionists, as provided by section 78 of the Indian Companies Act, 1913. If at any time there are not within British India sufficient directors capable of acting to form a quorum, any director or any two members of the company may call an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be called by the directors.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122, for " special resolution ".

² Cl. (d) rep., *ibid.*

³ Ins., *ibid.*

⁴ Subs. by s. 122, *ibid* for " once in every year ".

(Part X.—Companies established outside British India.)

- (iv) an address in British India where the said instrument, enactments or provisions, or copies thereof, and if the same are in a foreign language a translation thereof in the English language certified in the prescribed manner, can be inspected ;
- (v) the date on which and the country in which the company was incorporated ;
- (vi) whether the company has established a place of business in British India and, if so, the address of its principal office in British India :

Provided that the provisions of sub-clauses (i), (ii) and (iii) of this clause shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business ;

- (b) subject to the provisions of this section, state the matters specified in sub-section (1A) of section 93 and set out the reports specified in that section :

Provided that—

- (i) where any prospectus is published as a newspaper advertisement, it shall be a sufficient compliance with the requirement that the prospectus must specify the objects of the company if the advertisement specifies the primary object with which the company was formed, and
- (ii) in section 93 of this Act a reference to the articles of the company shall be deemed to be a reference to the constitution of the company.

(2) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

- (a) as regards any matter not disclosed, he proves that he was not cognizant thereof ; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part, or
- (c) the non-compliance or contravention was in respect of matters which, in the opinion of the Court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused :

(*The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.*)

at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

57. If a poll is duly demanded, it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

59. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

60. On a show of hands every member present in person shall have one vote. ¹[On a poll every member shall have one vote in respect of each share or each hundred rupees of stock held by him].

61. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint-holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

62. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by proxy.

63. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122, for "On a poll every member shall have one vote for each share of which he is the holder."

(Part XA.—Banking Companies.)

or otherwise, subject to withdrawal by cheque, draft or order, notwithstanding that it engages in addition in any one or more of the following forms of business, namely :—

- (1) the borrowing, raising or taking up of money ; the lending or advancing of money either upon or without security ; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hoondees, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not ; the granting and issuing of letters of credit, travellers cheques and circular notes ; the buying, selling and dealing in bullion and specie ; the buying and selling of foreign exchange including foreign bank notes ; the acquiring, holding, issuing on commission, underwriting and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds ; the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents or others ; the negotiating of loans and advances ; the receiving of all kinds of bonds, scrips or valuables on deposit, or for safe custody or otherwise ; the collecting and transmitting of money and securities ;
- (2) acting as agents for Governments or local authorities or for any other person or persons ; the carrying on of agency business of any description other than the business of a managing agent including the power to act as attorneys and to give discharges and receipts ;
- (3) contracting for public and private loans and negotiating and issuing the same ;
- (4) the promoting, effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, Municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue ;
- (5) carrying on and transacting every kind of guarantee and indemnity business ;
- (6) promoting or financing or assisting in promoting or financing any business undertaking or industry, either existing or new, and developing or forming the same either through the instrumentality of syndicates or otherwise ;
- (7) acquisition by purchase, lease, exchange, hire or otherwise of any property immoveable or moveable and any rights or privileges which the company may think necessary or convenient to

(*The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.*)

and may exercise all such powers of the company as are not, by the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Act, and to such regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting ; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors, but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company or created by it, and to keeping a register of the directors, and to sending to the registrar an annual list of members, and a summary of particulars relating thereto and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions and a copy of the register of directors and notifications of any changes therein.

75. The director shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the directors ;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors ;
- (c) of all resolutions and proceedings at all meetings of the company, and, of the directors, and of committees of directors ;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

the directors for the time being or, if their number is not three of three, then the number nearest to one-third shall retire from

directors to retire in every year shall be those who have been since their last election, but as between persons who became the same day those to retire shall (unless they otherwise agree themselves) be determined by lot.

any director shall be eligible for re-election.

company at the general meeting at which a director retires in may fill up the vacated office by electing a person thereto.

any meeting at which an election of directors ought to take place, the vacating directors are not filled up, the meeting shall stand the same day in the next week at the same time and place, adjourned meeting the places of the vacating directors are not vacating directors or such of them as have not had their places be deemed to have been re-elected at the adjourned meeting.

ect to the provisions of sections 83A and 83B of the Indian t, 1913] the Company may from time to time in general meeting duce the number of directors, and may also determine in what increased or reduced number is to go out of office.

usual vacancy occurring on the board of directors may be filled ectors, but the person so chosen shall be subject to retirement ne as if he had become a director on the day on which the director e he is appointed was last elected a director.

directors shall have power at any time, and from time to time, erson as an additional director who shall retire from office at the g ordinary general meeting, but shall be eligible for election ny at that meeting as an additional director.

company may by extraordinary resolution remove any director ipiration of his period of office, and may by an ordinary resolu- another person in his stead; the person so appointed shall be irement at the same time as if he had become a director on the t the director in whose place he is appointed was last elected

Proceedings of Directors.

directors may meet together for the despatch of business, adjourn e regulate their meetings, as they think fit. Questions arising g shall be decided by a majority of votes. In case of an equality chairman shall have a second or casting vote. A director may, ary on the requisition of a director shall, at any time, summon ctors.

(Part XI.—Supplemental.)

PART XI.

SUPPLEMENTAL.

Legal proceedings, offences, etc.

278. (1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

(2) If any offence which by this Act is declared to be punishable by fine only is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

(3) Notwithstanding anything in the Code of Criminal Procedure, 1898, every offence against this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

279. The Court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding of the person on whose information the fine is recovered.

280. Where a limited company is plaintiff or petitioner in any suit or other legal proceeding, any Court having jurisdiction in the matter may, if it appears that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

¹[281. (1) If in any proceeding for negligence, default, breach of duty or breach of trust against a person to whom this section applies, it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think fit.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the Court for relief, and the Court on any such application shall have the same power to relieve him as under this section it would have had if it had been a Court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 120, for the original section.

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

97. No dividends shall be paid otherwise than out of profits ¹[of the year or any other undistributed profits.]

98. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

Accounts.

²[103. The directors shall cause to be kept proper books of account with respect to—

(a) all sums of money received and expended by the company and the matters in respect of which the receipts and expenditure take place :

(b) all sales and purchases of goods by the company :

(c) the assets and liabilities of the company.]

²[104. The books of account shall be kept at the registered office of the company or at such other place as the directors shall think fit and shall be open to inspection by the directors during business hours.]

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the directors or by the company in general meeting.

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122.

² Subs. by s. 122, *ibid.*, for the original regulation.

(*The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares. Table B.—Table of Fees to be paid to the Registrar.*)

ing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

113. If a member has no registered address in British India, and has not supplied to the company an address within British India for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

114. A notice may be given by the company to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

115. A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the insolvent or by any like description, at the address (if any) in British India supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

116. Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member of the company (including bearers of share-warrants) except those members who (having no registered address within British India) have not supplied to the company an address within British India for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or insolvency of a member, who but for his death or insolvency would be entitled to receive, notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B.

(See sections 249 and 262.)

TABLE OF FEES TO BE PAID TO THE REGISTRAR.

I.—By a company having a share capital.

Rs. A. P.

- | | | | |
|---|----|---|---|
| 1. For registration of a company whose nominal share capital does not exceed Rs. 20,000, a fee of | 40 | 0 | 0 |
| 2. For registration of a company whose nominal share capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital (that is to say)— | | | |
| For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees | 20 | 0 | 0 |

(*The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.*)

thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and *vice versâ*, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate.

Business.

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 103 of the Indian Companies Act, 1913, if, and so far as, those restrictions are binding upon the company.

Shares.

3. Subject to the provisions, if any, in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine ¹[and any preference share may with the sanction of a special resolution be issued on the terms that it is or at the option of the company is liable to be redeemed.]

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may ¹[subject to the provisions of section 66A of the Indian Companies Act, 1913] be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least five per cent. of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections 101 and 104 of the Indian Companies Act, 1913, as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon: Provided that, in respect of a share or shares held

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122.

(The First Schedule.—Table B.—Table of Fees to be paid to the Registrar. The Second Schedule.—Statement in lieu of Prospectus.)

II.—By a company not having a share capital—contd.

Rs. L. P.

- | | | | |
|---|---|---|---|
| 7. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up | 5 | 0 | 0 |
| 8. For making a record of any fact by this Act authorised or required to be recorded by the registrar a fee of | 5 | 0 | 0 |

THE SECOND SCHEDULE.

(See sections 92 and 154.)

FORM I.

THE INDIAN COMPANIES ACT, 1913.

STATEMENT IN LIEU OF PROSPECTUS

filed by

..... Limited,

pursuant to section 86 of the Indian Companies Act, 1913.

Presented for filing by

The nominal share capital of the company Rs.

Divided into	Shares of Rs. each.
	" Rs. each.
	" Rs. each.

Amount (if any) of above capital which consists of redeemable preference shares.	Shares of Rs. each.
--	--------------------------

The date on or before which these shares are, or are liable to be redeemed.

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

payments) pay to the company at the time or times so specified the amount called on his shares.

13. The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per cent.) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and transmission of shares.

18. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain holder of the share until the name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve :

I, A B of _____, in consideration of the sum of rupees _____ paid to me by C D of _____ (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share [or shares] numbered in the undertaking called the _____ Company, Limited, to hold unto the said transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof, and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the day of _____

Witness to the signatures of, etc.

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days, from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company received payment in full of the nominal amount of the shares.

29. A duly verified declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration, if any, given for the share on the sale or disposition thereof, shall constitute a good title to the share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase-money (if any), nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of shares into stock.

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction re-convert any stock into paid-up shares of any denomination.

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognised as depositor of the share-warrant. The company shall, on two days' written notice, return the deposited share-warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of a share-warrant, sign a requisition for calling a meeting of the company, or attend, or vote or exercise any other privilege of a member at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share-warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may, from time to time, make rules as to the terms on which (if they shall think fit) a new share-warrant or coupon may be issued by way of renewal in case of defacement, loss or destruction.

Alteration of Capital.

41. The directors may, with the sanction of ¹[the company in general meeting], increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122, for "an extraordinary resolution of the company".

(The Third Schedule.—Forms A and B.)

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of , merchant	200
2. C. D. „ , „	25
3. E. F. „ , „	30
4. G. H. „ , „	40
5. I. J. „ , „	15
6. K. L. „ , „	5
7. M. N. „ , „	10
TOTAL SHARES TAKEN .	325

Dated the day of 19 .

Witness to the above signatures.

X. Y. of .

FORM B.

(See sections 7 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY
GUARANTEE, AND NOT HAVING A SHARE CAPITAL.

Memorandum of Association.

1st.—The name of the company is “The Mutual Calcutta Marine Association, Limited”.

2nd.—The registered office of the company will be situate in Calcutta.

3rd.—The objects for which the company is established are “the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above object.”

4th.—The liability of the members is limited.

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

Proceedings at General Meeting.

49. ¹[Subject to the provisions of sub-section (2) of section 81 of the Indian Companies Act, 1913, relating to special resolutions], fourteen days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business, shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under ¹[the Indian Companies Act, 1913, or] the regulations of the company, entitled to receive such notices from the company; but ²[the accidental omission to give notice to or the non-receipt of notice] by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, ³[two members in the case of a private company and five members in the case of any other company] personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if called upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted

¹ Ins. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122.

² Subs. by s. 122, *ibid.* for "non-receipt of the notice".

³ Subs. by s. 122, *ibid.* for "three members".

(The Third Schedule.—Form B.)

5. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be called by any two members in the same manner as nearly as possible as that in which meetings are to be called by the directors.

6. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

7. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, call an extraordinary general meeting.

8. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the Company.

9. On receipt of the requisition the directors shall forthwith proceed to call a general meeting: if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists or any other five members may themselves call a meeting.

Proceedings at General Meetings.

10. Fourteen days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting; but the non-receipt of such a notice by any member shall not invalidate the proceedings at any general meeting.

11. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of remuneration of the auditors.

12. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows (that is to say):—if the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members with this limitation, that no quorum shall in any case exceed ten.

¹ Subs. for the original words by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122.

(The Third Schedule.—Form B.)

24. Any instrument appointing a proxy shall be in the following form :—

Company, Limited.

I, _____, of _____, being a Member of the
Company, Limited, hereby appoint _____ of _____ as my proxy
to vote for me and on my behalf at the [ordinary or extraordinary, as the
case may be] general meeting of the company to be held on the
day of _____ and at any adjournment thereof.

Signed this _____ day of _____.

Directors.

25. The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

26. Until directors are appointed, the subscribers of the memorandum of association shall, for all the purposes of the Indian Companies Act, 1913, be deemed to be directors.

Powers of Directors.

27. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by the Indian Companies Act, 1913, or by any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting ; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

Elections of Directors.

28. The directors shall be elected annually by the company in general meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Audit.

29. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word " members " were substituted for " shareholders," and as if " first general meeting " were substituted for " statutory meeting ".

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

The Seal.

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose; and those two directors and secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors.

77. The office of director shall be vacated if the director—

- ¹[(a)] fails to obtain within the time specified in sub-section (1) of section 84 of the Indian Companies Act, 1913, or at any time thereafter ceases to hold, the share qualification, if any, necessary for his appointment; or
- [(b)] is found to be of unsound mind by a Court of competent jurisdiction; or
- [(c)] is adjudged insolvent; or
- [(d)] fails to pay calls made on him in respect of shares held by him within six months from the date of such calls being made; or
- [(e)] without the sanction of the company in general meeting accepts or holds any office of profit under the company other than that of a managing director or manager or a legal or technical adviser or a banker; or
- [(f)] absents himself from three consecutive meetings of the directors or from all meetings of the directors for a continuous period of three months, whichever is longer, without leave of absence from the board of directors; or
- [(g)] accepts a loan from the company; or]
- ²[(h)] is concerned or participates in the profits of any contract with the company; or
- ²[(i)] is punished with imprisonment for a term exceeding six months:

Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for, the company of which he is director, but a director shall not vote in respect of any such contract or work, and if he does so vote, his vote shall not be counted.

Rotation of Directors.

78. At the first ordinary meeting of the company, the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year,

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122, for the original cls. (a) to (d).

² The original cls. (e) and (f) were re-lettered (h) and (i) by s. 122, *ibid.*

(The Third Schedule.—Form C.)

such other things as are incidental or conducive to the attainment of the above object ”.

4th.—The liability of the members is limited.

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding fifty rupees.

6th.—The share capital of the company shall consist of five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
“ 1. A. B. of	200
“ 2. C. D. of	25
“ 3. E. F. of	30
“ 4. G. H. of	40
“ 5. I. J. of	15
“ 6. K. L. of	5
“ 7. M. N. of	10
TOTAL SHARES TAKEN .	325

Dated the *day of* *19* .

Witness to the above signatures.

X. Y., of

Articles of Association to accompany preceding Memorandum of Association.

1. The share capital of the company is five hundred thousand rupees, divided into five thousand shares of one hundred rupees each.

(*The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.*)

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceeds three) be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office ; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit ; any committee so ¹[formed] shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings : if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes, the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

95. The company in general meeting may declare dividends, but no dividends shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

¹ Subs. by the Repealing and Amending Act, 1914 (10 of 1914), Sch. I, for "found".

(The Third Schedule.—Form D.)

We, the several persons whose names are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
" 1. A. B. of	3
" 2. C. D. of	2
" 3. E. F. of	1
" 4. G. H. of	2
" 5. I. J. of	2
" 6. K. L. of	1
" 7. M. N. of	1
TOTAL SHARES TAKEN .	12

Dated the day of 19 .

Witness to the above signatures.

X. Y., of .

Articles of Association to accompany the preceding Memorandum of Association.

1. The share capital of the company is twenty thousand rupees, divided into twenty shares of one thousand rupees each.

2. All the articles of Table A of the Indian Companies Act, 1913, shall be deemed to be incorporated with these articles and to apply to the company.

Names, Addresses and Descriptions of Subscribers.

- " 1. A. B. of , merchant.
- " 2. C. D. of
- " 3. E. F. of
- " 4. G. H. of
- " 5. I. J. of
- " 6. K. L. of
- " 7. M. N. of

Dated the day of 19 .

Witness to the above signatures.

X. Y., of .

(The First Schedule.—Table A.—Regulations for Management of a Company limited by Shares.)

¹[106. The directors shall as required by sections 131 and 131A of the Indian Companies Act, 1913, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance-sheets, and reports as are referred to in those sections.]

107. The profit and loss account shall ²[in addition to the matters referred to in sub-section (3) of section 132 of the Indian Companies Act, 1913,] show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

108. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount (if any) which they propose to carry to a reserve fund.

109. A copy of the balance-sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

110. The directors shall in all respects comply with the provisions of sections 130 to 135 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force.

Audit.

111. Auditors shall be appointed and their duties regulated in accordance with sections 144 and 145 of the Indian Companies Act, 1913, or any statutory modification thereof for the time being in force.

Notices.

112. (1) A notice may be given by the company to any member either personally or by sending it by post to him to his registered address or (if he has no registered address in British India) to the address, if any, within British India supplied by him to the company for the giving of notices to him.

(2) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter contain-

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 122, for the original regulation.

² Ins. by s. 122, *ibid.*

(The Third Schedule.—Form E.)

List of Persons holding shares in the Company, Limited, on
the day of 19 , and of persons who have held shares
therein at any time since the date of the last return, showing their names and
addresses and an account of the shares so held.

[illegible]

* State the aggregate number of shares forfeited (if any).

† The aggregate number of shares held and not the distinctive numbers, must be stated and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

† When the shares are of different classes, these columns may be sub-divided so that the number of each class held or transferred may be shown separately.

§ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the remarks column immediately opposite the particulars of each transfer.

II.—*By a company not having a share capital.*

1. For registration of a company whose number of members, as stated in the articles of association, does not exceed 20 40 0 0
 2. For registration of a company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100 100 0 0
 3. For registration of a company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.
 4. For registration of a company in which the number of members is stated in the articles of association to be unlimited, a fee of 400 0 0
 5. For registration of any increase on the number of members made after the registration of the company, the same fees as would have been payable [in respect of such increase] if such increase had been stated in the articles of association at the time of registration: 2*
- Provided that no one company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.
6. For registration of any existing company except such companies as are by this Act exempted from payment of fees in respect of registration under this Act the same fee as is charged for registering a new company.

¹ Ins. by Notification No. 1-D., dated 3rd November 1917, see *Gazette of India, 1917, Pt. I, p. 1787.*

² The figure "5" was omitted, *ibid.*

(The Third Schedule.—Form F.)

1[FORM F.

(See section 132.)

Balance-Sheet as at.....19.

CAPITAL AND LIABILITIES.

CAPITAL—	
Authorised Capital.....shares of Rs.....each	
(Distinguishing between the various classes of Capital.)	
Issued Capital.....shares of Rs.....each	
(i) Shares issued as fully paid up pursuant to any contract without payments being received in cash..... shares of Rs.....each.	
(ii) Shares issued for payments in cash.....shares of Rs.....each.	
Subscribed Capital.....shares of Rs.....each	
Amount called up at Rs.....per share	
Less—Calls unpaid—	
(i) due from Managing Agents	
(ii) due from others	
Add—Forfeited shares (amount paid up).	
Note.—Where circumstances permit issued and subscribed capital and amount called up may be shown as one item, e.g.,	
Issued and Subscribed Capital.....shares of Rs.....each, Rs....	
paid up.	
RESERVES	
DEBENTURES stating the nature of security	
ANY SINKING FUND	
ANY OTHER FUND CREATED OUT OF NET PROFITS, including any development fund.	
ANY PENSION OR INSURANCE FUND	
PROVISION FOR BAD AND DOUBTFUL DEBTS	

PROPERTY AND ASSETS.

FIXED CAPITAL EXPENDITURE—

(Distinguishing as far as possible between expenditure upon good-will, land, buildings, lease-holds, railway sidings, plant, machinery, furniture, development of property, patents, trade marks and designs, interest paid out of Capital during construction, etc., and stating in every case the original cost and the additions thereto and deductions therefrom during the year, and the total Depreciation written off under each head. Where sums have been written off on a reduction of capital or a revaluation of assets every balance-sheet after the first balance-sheet subsequent to the revaluation or revaluation shall show the reduced figures, with the date of and the amount of the reduction made.)

PRELIMINARY EXPENSES

COMMISSION OR BROKERAGE

(Commission or Brokerage paid for underwriting or placing or subscribing shares or debentures until written off.)

DISCOUNT ALLOWED on the issue of shares or so much as has not been written off at the date of the balance-sheet.

STORES AND SPARE PARTS

LOOSE TOOLS

LIVE-STOCK AND VEHICLES

STOCK IN TRADE

(Stating mode of valuation, e.g., cost or market value).

BILLS OF EXCHANGE

BOOK DEBITS

¹ Subs. by the Indian Companies (Amendment) Act, 1936 (22 of 1936), s. 124, for the original form.

(The First Schedule.—Table B.—Table of Fees to be paid to the Registrar.)

I.—By a company having a share capital—contd.

Rs. A. P.

For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 50,000 rupees up to 10,00,000 rupees	5	0	0
For every 10,000 rupees of nominal share capital, or part of 10,000 rupees, after the first 10,00,000 rupees.	1	0	0

3. For registration of any increase of share capital made after the first registration of the company, the same fees per 10,000 rupees or part of 10,000 rupees, as would have been payable if such increased share capital had formed part of the original share capital at the time of registration :

Provided that no company shall be liable to pay in respect of nominal share capital on registration, or afterwards, any greater amount of fees than 1,000 rupees taking into account, in the case of fees payable on an increase of share capital after registration, the fees paid on registration.

4. For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company.

5. For filing any document by this Act required or authorised to be filed, other than the memorandum or the abstract required to be filed with the registrar by a receiver or the statement required to be filed with the registrar by the liquidator in a winding up 5 0 0
6. For making a record of any fact by this Act authorised or required to be recorded by the registrar, a fee of 5 0 0

THE NATIONAL COMMISSION ON EXTERNAL DEBT

REPORT OF THE COMMISSION

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(The Second Schedule.—Statement in lieu of Prospectus.)

Names, descriptions and addresses of directors or proposed directors and managers or proposed managers, and any provision in the articles, or in any contract, as to appointment of and remuneration payable to directors or managers.	
If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	1. —shares of Rs..... fully paid. 2. —shares upon which Rs..... per share credited as paid.. 3. Debenture Rs..... 4. Consideration.
Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company.	
Amount (in cash, shares or debentures) payable to each separate vendor.	
Amount (if any) paid or payable (in cash or shares or debentures) for any such property specifying amount (if any) paid or payable for goodwill.	Total purchase price Rs..... Cash . . . Rs..... Shares . . . Rs..... Debentures . . . Rs..... Goodwill . . . Rs.....
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company ; or	Amount paid. Amount payable.
Rate of the commission	Rate per cent.
The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.	
Estimated amount of preliminary expenses	Rs.....

(The Third Schedule.—Form H. The Fourth Schedule.—Enactments repealed.)

(b) loans made by the Company to any employee of the Company if the loan does not exceed twenty thousand rupees and is certified by the directors of the Company to have been made in accordance with any practice adopted or about to be adopted by the Company with respect to loans to its employees.

Note (2)—The foregoing shall not apply in relation to a Managing Director of the Company, and in the case of any other director who holds any salaried employment or office in the Company there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of directors' fees.

(Where a company is a holding company then the Balance-Sheet shall disclose the particulars required by section 132A.)]

THE FOURTH SCHEDULE.

(See section 290.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
1882 . .	VI	The Indian Companies Act, 1882.	So much as has not been repealed.
1887 . .	VI	The Indian Companies Act, (1882) Amendment Act, 1887.	The whole.
1891 . .	XII	The Amending Act, 1891 .	So much of the Second Schedule as relates to the Indian Companies Act, 1882.
1895 . .	XII	The Indian Companies (Memorandum of Association) Act, 1895.	The whole.
1899 . .	IX	The Indian Arbitration Act, 1899.	The second proviso to section 3 relating to the Indian Companies Act, 1882.
1900 . . .	IV	The Indian Companies (Branch Registers) Act, 1900.	The whole.
1910 . .	IV	The Indian Companies (Amendment) Act, 1910.	The whole.

(The Second Schedule.—Statement in lieu of Prospectus.)

FORM II.

THE INDIAN COMPANIES ACT, 1913.

STATEMENT IN LIEU OF PROSPECTUS

filed by

.....LIMITED,

pursuant to sub-section (1) of section 154 of the Indian Companies Act, 1913.

Presented for filing by

The nominal share capital of the Company.	Rs.....
Divided into	Shares of Rs.....each. Shares of Rs.....each. Shares of Rs.....each.
Amount (if any) of above capital which consists of redeemable preference shares.	Shares of Rs.....each.
The date on or before which these shares are, or are liable to be redeemed.	
Names, descriptions and addresses of Directors or proposed Directors and Managers or proposed Managers, and any provision in the Articles, or in any contract, as to appointment of and remuneration payable to Directors or Managers.	
If the share capital of the Company is divided into different classes of shares, the right of voting at meetings of the Company conferred by and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	
Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement.	1. Shares of Rs....fully paid. 2. Shares upon which Rs.....per share credited as paid. 3. Debenture Rs. 4. Consideration.
Names and addresses of vendors of property (1) purchased or acquired by the Company within the two years preceding the date of this Statement or (2) agreed or proposed to be purchased or acquired by the Company.	

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

Transmission of Shares.

11. The executors or administrators or representatives of a deceased shareholder shall be the only persons recognized by the Company as having any title to his share.

12. Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any shareholder, or in consequence of the marriage of any female shareholder or in any way other than by transfer, may be registered as a shareholder upon such evidence being produced as may from time to time be required by the Company.

13. Any person who has become entitled to a share in any way other than by transfer may, instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

14. The person so becoming entitled shall testify such election by executing to his nominee a transfer of such share.

15. The instrument of transfer shall be presented to the Company accompanied with such evidence as they may require to prove the title of the transferor, and thereupon the Company shall register the transferee as a shareholder.

Forfeiture of Shares.

16. If any shareholder fails to pay any call due on the appointed day, the Company may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with any interest that may have accrued by reason of such non-payment.

17. The notice shall name a further date, and a place or places, being a place or places, at which calls of the Company are usually made payable, on and at which such call is to be paid ; it shall also state that, in the event of non-payment at the time and place appointed, the shares in respect of which such call was made will be liable to be forfeited.

18. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the directors to that effect.

19. Any shares so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company thinks fit.

20. Any shareholder whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

Increase in Capital.

21. The Company may, with the sanction of the Company previously given in general meeting, increase its capital.

22. Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions in all

(The Second Schedule.—Statement in lieu of Prospectus. The Third Schedule.—Form A.)

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year the above requirements shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above named as Directors or proposed Directors or of their agents authorized in writing.)

Dated the

day of

.]

THE THIRD SCHEDULE.

FORM A.

(See sections 6 and 151.)

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1st.—The name of the company is “The Eastern Steam Packet Company, Limited”.

2nd.—The registered office of the company will be situate in the province of Bombay.

3rd.—The objects for which the company is established are “the conveyance of passengers, and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object”.

4th.—The liability of the members is limited.

5th.—The share capital of the company is two hundred thousand rupees, divided into one thousand shares of two hundred rupees each.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

fifty, with this limitation, that it shall not be necessary for any quorum in any case to exceed forty.

33. If within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened upon the requisition of the shareholders, shall be dissolved ; in any other case it shall stand adjourned to the following day at the same time and place ; and if at such adjourned meeting the required number of shareholders is not present, it shall be adjourned *sine die*.

34. The chairman (if any) of the Board of Directors shall preside as chairman at every meeting of the Company.

35. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be chairman of such meeting.

36. The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place ; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

37. At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

38. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs ; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Shareholders.

39. Every shareholder shall have one vote for every share up to ten ; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares.

40. If any shareholder is a lunatic or idiot, he may vote by his committee ; and if any shareholder is a minor, he may vote by his guardian, or any one of his guardians if more than one.

41. If more persons than one are jointly entitled to a share or shares, the person whose name stands first in the register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

42. No shareholder shall be entitled to vote at any meeting unless all calls due from him have been paid, nor until he shall have been possessed of his shares three calendar months, unless such shares shall have been acquired or shall have come by bequest, or by marriage, or by succession to an intestate's estate, or by any deed of settlement after the death of any person who shall have been entitled for life to the dividends of such shares.

(The Third Schedule.—Form B.)

5th.—Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding one hundred rupees.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

" 1. A. B. of

" 2. C. D. of

" 3. E. F. of

" 4. G. H. of

" 5. I. J. of

" 6. K. L. of

" 7. M. N. of

Dated the day of

Witness to the above signatures.

X. Y. of

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF
ASSOCIATION.

Number of Members.

1. The company for the purpose of registration is declared to consist of five hundred members.

2. The directors hereinafter mentioned may, whenever the business or the association requires it, register an increase of members.

Definition of Members.

3. Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

4. The first general meeting shall be held at such time not being less than one month nor more than three months after the incorporation of the company, and at such place, as the directors may determine.

*(Appendix I.—Table B in Schedule to Act XIX of 1857.)**Rotation of Directors.*

49. At the first ordinary meeting after the incorporation of the Company the whole of the directors shall retire from office ; and at the first ordinary meeting in every subsequent year, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

50. The one-third or other nearest number to retire during the first and second years ensuing the incorporation of the Company shall, unless the directors agree among themselves, be determined by ballot ; in every subsequent year the one-third or other nearest number who have been longest in office shall retire.

51. A retiring director shall be re-eligible.

52. The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

53. If at any meeting at which an election of directors ought to take place no such election is made, the meeting shall stand adjourned till the next day, at the same time and place, and, if at such adjourned meeting no election takes place, the former directors shall continue to act until new directors are appointed at the first ordinary meeting of the following year.

54. The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

55. Any casual vacancy occurring in the Board of Directors may be filled up by the directors ; but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

Proceedings of Directors.

56. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit, and determine the quorum necessary for the transaction of business ; questions arising at any meeting shall be decided by a majority of votes ; in case of an equality of votes, the chairman, in addition to his original vote, shall have a casting vote ; a director may at any time summon a meeting of the directors.

57. The directors may elect a chairman of their meetings and determine the period for which he is to hold office ; but if no such chairman is elected or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

58. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit : any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

(The Third Schedule.—Form B.)

13. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if called on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

14. The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

16. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

17. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

18. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Votes of Members.

19. Every member shall have one vote and no more.

20. If any member is a lunatic or idiot, he may vote by his committee or other legal guardian.

21. No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

22. On a poll votes may be given either personally or by proxy: Provided that no company shall vote by proxy as long as a resolution of its directors in accordance with the provisions of section 80 of the Indian Companies Act, 1913, is in force. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

23. (1) No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for a corporation.

(2) The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(The Third Schedule.—Forms C and D.)

2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares in the company.

3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.

4. All the articles of Table A of the Indian Companies Act, 1913, shall be deemed to be incorporated with these articles and to apply to the company.

Names, Addresses and Descriptions of Subscribers.

" 1. A. B. of , merchant.

" 2. C. D. of

" 3. E. F. of

" 4. G. H. of

" 5. I. J. of

" 6. K. L. of

" 7. M. N. of

Dated the day of 19 .

Witness to the above signatures.

X. Y., of

FORM D.

(See sections 8 and 151.)

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY
HAVING A SHARE CAPITAL.

Memorandum of Association.

1st.—The name of the company is "The Patent Stereotype Company".

2nd.—The registered office of the company will be situate in the province of Bombay.

3rd.—The objects for which the company is established are "the working of a patent method of founding and casting stereotype plates of which method P Q., of Bombay, is the sole patentee".

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

Transfers of Shares.

(8) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

(9) Shares in the Company shall be transferred in the following form :

I, A B of _____, in consideration of the sum of rupees _____
paid to me by C D of _____, do hereby

transfer to the said C D the share (or shares) numbered _____
standing in my name in the books of the _____ Company, to hold
unto the said C D, his executors, administrators and assigns, subject to the
several conditions on which I held the same at the time of the execution
thereof ; and I, the said C D, do hereby agree to take the said share (or shares)
subject to the same conditions. As witness our hands the
day of _____

(10) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

(12) The executors or administrators of a deceased member shall be the only persons recognised by the Company as having any title to his share.

(13) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may, from time to time, be required by the Company.

(14) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time as

(The Third Schedule.—Form E.)

FORM E.

AS REQUIRED BY PART II OF THE ACT.

(See section 32.)

Summary of Share Capital and Shares of the Company, Limited,
made up to the day of 19 (being the day of the
first ordinary general meeting in 19).

Nominal share capital Rs.	divided into*	{ shares of Rs.	each.
		{ shares of Rs.	each.
Total number of shares taken up* to the	day of	19	which
number must agree with the total shown in the list as held by existing mem- bers			
Number of shares issued subject to payment wholly in cash			
Number of shares issued as fully paid up otherwise than in cash			
Number of shares issued as partly paid up to the extent of	per share other- wise than in cash		
† There has been called up on each—of shares			Rs.
There has been called up on each—of shares			Rs.
There has been called up on each—of shares			Rs.
‡ Total amount of calls received, including payments on application and allot- ment			Rs.
Total amount (if any) agreed to be considered as paid on shares which have been issued as fully paid up otherwise than in cash			Rs.
Total amount (if any) agreed to be considered as paid on shares which have been issued as partly paid up to the extent of	per share		Rs.
Total amount of calls unpaid			Rs.
Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary			Rs.
Total amount (if any) paid on § shares forfeited			Rs.
Total amount of shares and stock for which share-warrants are outstanding			Rs.
Total amount of share-warrants issued and surrendered respectively since date of last summary			Rs.
Number of shares or amount of stock comprised in each share-warrant			Rs.
Total amount of debt due from the company in respect of all mortgages and charges which are required to be registered with the registrar under this Act			Rs.

* When there are shares of different kinds or amounts (e.g., Preference and Ordinary of Rs. 200 or Rs. 100) state the numbers and nominal values separately.

† Where various amounts have been called or there are shares of different kinds, state them separately.

‡ Include what has been received on forfeited as well as on existing shares.

§ State the aggregate number of shares forfeited.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

(25) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock ; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company ; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of the consolidated stock as would not, if existing in shares have conferred such privileges or advantages.

Increase in Capital.

(26) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares ; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined ; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place as the directors may determine.

(30) Subsequent general meetings shall be held, once at the least in every year, at such time and place as may be prescribed by the Company in general meeting ; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31) The above-mentioned general meetings shall be called ordinary meetings ; all other general meetings shall be called extraordinary.

(The Third Schedule.—Form E.)

Names and addresses of the persons who are the Directors of the
, Limited, on the day of 19 .

Names.	Addresses.

Names and addresses of the persons who are the managers of the
, Limited, on the day of 19 .

Names.	Addresses.

NOTE.—Banking companies must add a list of all their places of business.

I, _____, do hereby certify that the above list and summary truly and correctly states the facts as they stood on _____ day of _____ 19 _____.

(Signature).....

(State whether director, manager or secretary.)

(Appendix II: Table A in the First Schedule to Act VI of 1909.)

transacted at any adjourned meeting other than the business held indicated at the meeting from which the adjournment took place.

(42) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or jurisdiction of the votes recorded in favour of or against such resolution.

(43) If a poll is demanded by five or more members, it shall be taken in such manner as the chairman, director, and the clerk of the company shall be deemed to be the resolution of the Company in that behalf. In the case of an equality of votes, any question shall be decided by the chairman in a second or casting vote.

Table of Members.

1. Every member shall be entitled to the following rights and privileges:—
(a) To vote at any general meeting of the Company;
(b) To be eligible for election as a director;
(c) To be eligible for election as a member of the Board of Directors;
(d) To be eligible for election as a member of the Board of Directors;
(e) To be eligible for election as a member of the Board of Directors;

2. Every member shall be entitled to the following rights and privileges:—
(a) To vote at any general meeting of the Company;
(b) To be eligible for election as a director;
(c) To be eligible for election as a member of the Board of Directors;
(d) To be eligible for election as a member of the Board of Directors;
(e) To be eligible for election as a member of the Board of Directors;

3. Every member shall be entitled to the following rights and privileges:—
(a) To vote at any general meeting of the Company;
(b) To be eligible for election as a director;
(c) To be eligible for election as a member of the Board of Directors;
(d) To be eligible for election as a member of the Board of Directors;
(e) To be eligible for election as a member of the Board of Directors;

4. Every member shall be entitled to the following rights and privileges:—
(a) To vote at any general meeting of the Company;
(b) To be eligible for election as a director;
(c) To be eligible for election as a member of the Board of Directors;
(d) To be eligible for election as a member of the Board of Directors;
(e) To be eligible for election as a member of the Board of Directors;

5. Every member shall be entitled to the following rights and privileges:—
(a) To vote at any general meeting of the Company;
(b) To be eligible for election as a director;
(c) To be eligible for election as a member of the Board of Directors;
(d) To be eligible for election as a member of the Board of Directors;
(e) To be eligible for election as a member of the Board of Directors;

6. Every member shall be entitled to the following rights and privileges:—
(a) To vote at any general meeting of the Company;
(b) To be eligible for election as a director;
(c) To be eligible for election as a member of the Board of Directors;
(d) To be eligible for election as a member of the Board of Directors;
(e) To be eligible for election as a member of the Board of Directors;

(The Third Schedule.—Form F.)

CAPITAL AND LIABILITIES.				PROPERTY AND ASSETS.			
(a) Secured—				(Distinguishing between those considered good and in respect of which the company is fully secured and those considered good for which the company holds no security other than the debtor's personal security, and distinguishing between debts considered good and debts considered doubtful or bad. Debts due by directors or other officers of the company or any of them either severally or jointly with any other persons to be separately stated.)			
(i) loans on mortgages or fixed assets	.....	.....	.....	ADVANCES	.....	.....	.....
(ii) loans on debentures	.....	.....	.....	(Recoverable in cash or in kind or for value to be received, e.g., Rates, Taxes, Insurance, etc., showing separately—	.....	.....	.....
(iii) loans from banks, stating the nature of security	.....	.....	.....	(i) loans given to subsidiary companies	.....	.....	.....
(iv) liabilities to subsidiary companies	.....	.....	.....	(ii) loans including temporary advances made at any time during the year to directors or managers of the company)	.....	.....	.....
(v) other secured loans, stating the nature of security	.....	.....	.....	INVESTMENTS	.....	.....	.....
(vi) interest accrued on mortgages, debentures or other secured loans	.....	.....	.....	(Showing nature of investments and mode of valuation, e.g., Cost or Market value and distinguishing—	.....	.....	.....
(b) Unsecured—	.....	.....	.....	(i) investments in Government or trust securities	.....	.....	.....
(i) loans from banks	.....	.....	.....	(ii) investments in shares, debentures or bonds (showing separately shares fully paid up and partly paid up)	.....	.....	.....
(ii) fixed deposits	.....	.....	.....	(iii) investments in shares, debentures or bonds of subsidiary companies	.....	.....	.....
(iii) short term loans	.....	.....	.....	(iv) immovable properties	.....	.....	.....
(iv) advances by directors or managers and managing agents	.....	.....	.....	INTEREST ACCRUED ON INVESTMENTS	.....	.....	.....
(v) interest accruing but not due and interest accrued and due	.....	.....	.....	CASH AND OTHER BALANCES	.....	.....	.....
(vi) liabilities to subsidiary companies	.....	.....	.....	Amount in hand	.....	.....	.....
UNCLAIMED DIVIDENDS	.....	.....	.....	Balances with Agents and Bankers (In detail showing whether on deposit or current account, etc.)	.....	.....	.....
LIABILITIES—	.....	.....	.....	PROFIT AND LOSS	.....	.....	.....
For Goods supplied	.....	.....	.....		.....	.....	.....
For Expenses	.....	.....	.....		.....	.....	.....
For Acceptances	.....	.....	.....		.....	.....	.....
For Other Finance	.....	.....	.....		.....	.....	.....
ADVANCE PAYMENTS AND UNEXPIRED DISCOUNTS	.....	.....	.....		.....	.....	.....
(For the portion for which value has still to be given, e.g., in the case of the following classes of companies— Newspaper, Fire Insurance, Theatre, Club, Banking, Steamship Companies, etc.)	.....	.....	.....		.....	.....	.....
PROFIT AND LOSS	.....	.....	.....		.....	.....	.....
CONTINGENT LIABILITIES—	.....	.....	.....		.....	.....	.....
Claims against the company not acknowledged as debts	.....	.....	.....		.....	.....	.....
Money for which the company is contingently liable	.....	.....	.....		.....	.....	.....
(Showing separately the amount of any guarantees given by the company on behalf of directors or officers of the company.)	.....	.....	.....		.....	.....	.....
Arrears of Cumulative Preference Dividend	.....	.....	.....		.....	.....	.....

The information required to be given under any of the items or sub-items in this Form if not included in the Balance-Sheet itself shall be furnished in a separate Schedule or Schedules to be attached to and to form part of the Balance-Sheet.]

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

But the above rules shall be subject to the following exceptions :—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with, or done any work for, the Company of which he is director ; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

(58) At the first ordinary meeting after the registration of the Company the whole of the directors shall retire from office ; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59) The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60) A retiring director shall be re-eligible.

(61) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62) If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place ; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65) The Company in general meeting may by a special resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine

*(The Third Schedule.—Form H.)*8. *Contingent Liabilities.*9. *Arrears of Cumulative Preference Dividend.**Assets.*

1. *Fixed Assets, with sufficient particulars to disclose their general nature and stating how their values are arrived at.*
2. *Preliminary expenses, so far as not written off.*
3. *Any expenses incurred in connection with any issue of Share Capital or Debentures, so far as not written off.*
4. *If it is shown as a separate item in or is otherwise ascertainable from the books of the Company, or from any contract for the sale or purchase of any property to be acquired by the Company, or from any documents in the possession of the Company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property the amount of the goodwill and of any patents and trade marks as so shown or ascertained.*
5. *Interest paid on Capital, so far as not written off, showing the Share Capital on which and the rate at which interest has been paid out of Capital during the period to which the accounts relate.*
6. *Discount allowed on Shares issued, so far as not written off.*
7. *Commission paid or allowed in respect of any shares or debentures, so far as not written off.*
8. *Loans outstanding to enable employees or trustees on their behalf to purchase shares in the Company.*
9. *Particulars showing :—*
 - (a) *the amount of any loans which during the period to which the accounts relate have been made either by the Company or by any other person under a guarantee from or on a security provided by the Company to any director or officer of the Company, including any such loans which were repaid during the said period ;*
and
 - (b) *the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof ;*
and
 - (c) *the total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages, or other emoluments, paid to or receivable by them by or from the Company or by or from any subsidiary Company.*

Note (1)—There shall not be required to be shown :—

- (a) *in the case of a Company the ordinary business of which includes the lending of money, loans made by the Company in the ordinary course of its business ; or*

(Appendix II.—Table A in the First Schedule to Act VI of 1882)

(76) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned ; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77) No dividend shall bear interest against the Company.

Accounts.

(78) The directors shall cause true accounts to be kept

of the stock in trade of the Company ;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place ; and

of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meetings, shall be open to the inspection of the members during the hours of business.

(79) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82) A printed copy of such balance-sheet shall, seven days previously to each meeting, be served on every member in the manner in which notices are accustomed to be served.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

APPENDIX I.

(Table B in Schedule to Act XIX of 1857.)¹

REGULATIONS FOR MANAGEMENT OF THE COMPANY.

Shares.

1. No person shall be deemed to have accepted any share in the Company unless he has testified his acceptance thereof by writing under his hand in such form as the Company from time to time directs.

2. The Company may from time to time make such calls upon the shareholders, in respect of all moneys unpaid on their shares, as they think fit, provided that twenty-one days' notice at least is given of each call; and each shareholder shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Company.

3. A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If, before or on the day appointed for payment, any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of 5 per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The Company may, if they think fit, receive, from any of the shareholders willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for, and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the shareholder paying such sum in advance and the Company agree upon.

6. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

7. The Company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of such sum not exceeding eight annas as the Company may prescribe, be entitled to a certificate, under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed on payment of such sum, not exceeding eight annas, as the Company may prescribe.

10. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

¹ See s. 290 (1) (b) of the Indian Companies Act, 1913 (7 of 1913).
The Table is reproduced here as an Appendix for convenience of reference.

(*Appendix II.—Table A in the First Schedule to Act VI of 1882.*)

Notices.

(95) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members ; and notice so given shall be sufficient notice to all the holders of such share.

(97) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post ; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

THE DESTRUCTIVE INSECTS AND PESTS ACT, 1914.

ACT No. II OF 1914¹.

[3rd February, 1914

An Act to prevent the introduction into British India of any insect fungus or other pest, which is or may be destructive to crops.

WHEREAS it is expedient to make provision for preventing the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops ; It is hereby enacted as follows :—

1. This Act may be called the Destructive Insects and Pests Act, 1914.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “ crops ” includes all agricultural or horticultural crops, and trees or bushes ;

(b) “ import ” means the bringing or taking by sea ²[land or air ³[across any customs frontier as defined by the Central Government] ; and

(c) “ infection ” means infection by any insect, fungus or other pest injurious to a crop.

3. (1) The ⁴[Central Government] may, by ⁵ notification in the ⁶ [Official Gazette], prohibit or regulate, subject to such restrictions and conditions as ⁷ [it] may impose, the import into British India, or any part thereof, or any specified place therein, of any article or class of articles likely to cause infection to any crop.

(2) A notification under this section may specify any article or class of articles, either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

4. A notification under section 3 shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878, and the officers of Customs at every port shall have the same powers in respect of any article with regard to the importation of which such a notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs, and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 166 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 7 ; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 518, *ibid.*, 1914, Pt. VI, pp. 64 and 188.

² Subs. by the Destructive Insects and Pests (Amendment) Act, 1930 (20 of 1930), s. 2, for “ or land ”.

³ Ins. by the A. O. For definition of customs frontier, see Gazette of India Extraordinary, dated 1st April, 1937, p. 433.

⁴ Subs. by the A. O. for “ G. G. in C.”

⁵ See notification of the G. of I. in the E., H. & L. Dept., No. F-320/35-A, dated 20th July 1936.

⁶ Subs. by the A. O. for “ Gazette of India ”.

⁷ Subs. by the A. O. for “ he ”.

(Chapter I.—Preliminary.)

CHAPTER III.

PENALTIES.

SECTIONS.

7. Offences in respect of infringing copies.
8. Possession of plates for purpose of making infringing copies.
9. Punishment on second conviction.
10. Power of Court to dispose of infringing copies or plates for purpose of making infringing copies.
11. Cognizance of offences.
12. Saving in case of infringement by construction of building.

CHAPTER IV.

MISCELLANEOUS.

13. Courts having civil jurisdiction regarding infringement of copy-right.
14. Effect of non-registration under Act XX of 1847.
15. [*Repealed.*]

THE FIRST SCHEDULE.—PORTIONS OF THE COPYRIGHT ACT APPLICABLE TO BRITISH INDIA.

THE SECOND SCHEDULE.—[*Repealed.*]ACT No. III OF 1914¹.

[24th February, 1914.]

An Act to modify and add to the provisions of the Copyright Act, 1911.

WHEREAS it is expedient to modify and add to the provisions of the ² Copyright Act, 1911, in its application to British India ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Copyright Act, 1914.
- (2) It extends to the whole of British India including British Baluchistan, the District of Angul³ and the Sonthal Parganas.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 163 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 23 ; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 515, *ibid.*, 1914, Pt. VI, pp. 12 and 369.

² Coll. Stat., Vol. II, and *infra*.

³ Now two districts, *viz.*, the Khondmals District and the Angul District. This Act has been declared to be in force in these two districts by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch., respectively.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

59. A committee may elect a chairman of their meetings : if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

60. A committee may meet and adjourn as they think proper : questions at any meeting shall be determined by a majority of votes of the members present ; and in case of an equal division of votes, the chairman shall have a casting vote.

61. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

62. The director shall cause minutes to be made in books provided for the purpose—

- (1) of all appointments of officers made by the directors ;
- (2) of the names of the directors present at each meeting of directors and committees of directors ;
- (3) of all orders made by the directors and committees of directors ; and
- (4) of all resolutions and proceedings of meetings of the Company, and of the directors and committees of directors.

And any such minute as aforesaid if signed by any person purporting to be the chairman of any meeting of directors, or committee of directors, shall be receivable in evidence without any further proof.

63. The Company, in general meeting, may, by a special resolution, remove any director before the expiration of his period of office, and appoint another qualified person in his stead ; the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

64. The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

65. The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company, or any part thereof ; and the directors may invest the sum so set apart as a reserved fund upon such securities as they, with the sanction of the Company, may select.

(Chapter II.—Construction and Modification of the Copyright Act.)

India ; and the reference in proviso (b) of the same sub-section of the same section to the 26th day of July, 1910, shall, as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, be construed as a reference to the 30th day of October, 1912.

4. (1) In the case of works first published in British India, copyright shall be subject to this limitation that the sole right to produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work :

Provided that if within the said period the author, or any person to whom he has granted permission so to do, publishes a translation of any such work in any language, copyright in such work as regards the sole right to produce, reproduce, perform or publish a translation in that language shall not be subject to the limitation prescribed in this sub-section.

(2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

5. In the application of the Copyright Act to musical works the authors whereof were at the time of the making of the works resident in British India, or to musical works first published in British India, the term "musical work" shall, save as otherwise expressly provided by the Copyright Act, mean "any combination of melody and harmony, or either of them, which has been reduced to writing".

6. (1) Copies made out of British India of any work in which copyright subsists which if made in British India would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs officer, as defined in the Sea Customs Act, 1878, that he is desirous that such copies should not be imported into British India, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the Sea Customs Act, 1878.

(2) Before detaining any such copies, or taking any further proceedings with a view to the confiscation thereof, such Chief Customs officer, or any other officer appointed by ¹[the Chief Customs-authority] in this behalf, may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with these regulations, that the copies are such as are prohibited by this section to be imported.

(3) The ²[Central Government] may, by notification in the ³[Official Gazette] make regulations, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this section,

¹ Subs. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch. for "the L. G."

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "Gazette of India".

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

76. The election of auditors shall be made by the Company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

77. The remuneration of the auditors shall be fixed by the Company at the time of their election.

78. Any auditor shall be re-eligible on his quitting office.

79. If any casual vacancy occurs in the office of auditor, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

80. If no election of auditors is made in manner aforesaid, the Local Government may, on the application of one-fifth in number of the shareholders of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

81. Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

82. Every auditor shall have a list delivered to him of all books kept by the Company, and he shall at all reasonable times have access to the books and accounts of the Company; he may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the directors or any other officer of the Company.

83. The auditors shall make a report to the shareholders upon the balance-sheet and accounts; and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

84. Notices requiring to be served by the Company upon the shareholders may be served either personally, or by leaving the same, or sending them through the post in a letter addressed to the shareholders, at their registered places of abode.

85. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of shareholders; and notice so given shall be sufficient notice to all the proprietors of such share.

(Chapter III.—Penalties. Chapter IV.—Miscellaneous.)

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8, is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

10. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

(2) Any person affected by an order under sub-section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie ; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

11. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture, applies.

CHAPTER IV.

MISCELLANEOUS.

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge.

14. No suit or other civil proceeding instituted after the 30th of October, 1912, regarding infringement of copyright in any book the author whereof was at the time of making the book resident in British India, or of any book first published in British India, shall be dismissed by reason only that the registration of such book had not been effected in accordance with the provisions of of 1847. the Indian Copyright Act, 1847.

15. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

APPENDIX II.

(Table A in the First Schedule to Act VI of 1882.)¹

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3) If such certificate is worn out or lost, it may be renewed on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4) The directors may from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5) A call shall be deemed to have been made at the time when the resolution of the directors authorising such call was passed.

(6) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and, upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

¹ See section 290 (1) (c) of the Indian Companies Act, 1913 (VII of 1913)
The Table is reproduced here as an Appendix for convenience of reference.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

Special Provisions as to certain Works.

SECTIONS.

16. Works of joint authors.
17. Posthumous works.
18. Provisions as to Government publications.
19. Provisions as to mechanical instruments.
20. Provision as to political speeches.
21. Provision as to photographs.
22. Provisions as to designs registrable under 7 Edw. 7, c. 29.
23. Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.
24. Existing works.

Application to British Possessions.

25. Application of Act to British dominions.
26. Legislative powers of self-governing dominions.
27. Power of Legislatures of British possessions to pass supplemental legislation.
28. Application to protectorates.

PART II.

INTERNATIONAL COPYRIGHT.

29. Power to extend Act to foreign works.
30. Application of Part II to British possessions.

PART III.

SUPPLEMENTAL PROVISIONS.

31. Abrogation of common law rights.
32. Provisions as to Orders in Council.
33. Saving of university copyright.
34. Saving of compensation to certain libraries.
35. Interpretation.
36. Repeal.
37. Short title and commencement.

SCHEDULES.

(The First Schedule.—Portions of the Copyright Act applicable to British India.

- (d) in the case of a literary, dramatic or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered ;

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art. but for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright. Provided that the following acts shall not constitute an infringement of copyright :—

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary :
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work provided that he does not thereby repeat or imitate the main design of that work :
- (iii) The making or publishing of paintings, drawings, engravings or photographs, of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art :
- (iv) The publication in a collection, mainly composed of non-copyright matter, *bonâ fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists : Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged :
- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which

(Appendix II.—Table A in the First Schedule to Act VI of 1882)

the call remains unpaid, serve a notice on him requiring him to pay such sum together with interest and any expenses that may have accrued by reason of such non-payment.

(18) The notice shall name a further day on or before which such sum and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call made will be liable to be forfeited.

(19) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20) Any share so forfeited shall be deemed to be the property of the Company and may be disposed of in such manner as the Company in general meeting thinks fit.

(21) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22) A solemn declaration in writing, made before a Magistrate, that a call in respect of a share was made and notice thereof given, and that payment of the call was made and that the forfeiture of the share was effected by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the owner of such share discharged from all calls due prior to such purchase, and shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into

(23) The directors may, with the sanction of a resolution in general meeting, convert

(24) When any shares have been converted into stock, any part of such interest, in the same manner as and subject to which any shares in the

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

(51) Any instrument appointing a proxy shall be in the following form :—

I, _____, of _____, being a member of the _____ Company, Limited, and entitled to vote or _____ votes, hereby appoint _____, of _____, as my proxy to vote for me and on my behalf at the [ordinary or extraordinary as the case may be] general meeting of the Company to be held on the _____ day of _____, and at any adjournment thereof (or at any meeting of the Company that may be held in the year _____).
As witness my hand, this _____ day of _____. Signed by the said _____ in the presence of _____.

Directors.

(52) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

Powers of Directors.

(55) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57) The office of director shall be vacated—

if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company;
if he becomes bankrupt or insolvent;
if he is punished under any of the penal provisions of the foregoing Act;
if he is concerned in or participates in the profits of any contract with the Company.

(The First Schedule.—Portions of the Copyright Act applicable to British India,

production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had not reasonable ground for suspecting, that copyright subsisted in the work.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*

Importation of Copies.

11. (1) Copies made out of the United Kingdom of any work in which copyright exists which is made in the United Kingdom with intent to copy, and as to which the owner of the copyright gives notice in writing in the form of his agent to the Commissioners of Customs and Excise, shall not be deemed to be so imported, and shall, subject to the provisions of this section, be deemed to be included in the rate of prohibition and restrictions established in section 41 of the Customs Consolidation Act, 1869, and that section shall apply accordingly.

(2) Before allowing any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations made by the Board of Trade as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section or be imported.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

Special Provisions as to certain Works.

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof :

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

Audit.

(83) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86) The auditors may be members of the Company, but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company, and no director or other officer of the Company is eligible during his continuance in office.

(87) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88) The remuneration of the first auditors shall be fixed by the directors; that of subsequent auditors shall be fixed by the Company in general meeting.

(89) Any auditor shall be re-eligible on his quitting office.

(90) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91) If no election of auditors is made in manner aforesaid the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year and fix the remuneration to be paid to him by the Company for his services.

(92) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94) The auditors shall make a report to the members upon the balance-sheet and accounts, and in such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

(The First Edition.—) The copy delivered for the first time to the printer shall be the first edition.

finished and coloured in the same manner as the original, and shall be published, and shall be printed, on the same paper on which the original is printed.

(4) The copy delivered for the first time to the printer shall be on the paper on which the original is printed, and shall be printed for sale, and shall be the first edition of the work as printed for sale.

(5) The books of the National Library of Wales shall not include any book which is not a specimen of a regulation to be made by the Board of Wales.

(6) If a publisher fails to comply with the provisions of this Act as to the summary contribution to the National Library of Wales, and the value of the book, and the time shall be given to the publisher to rectify the defect, and the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or edition of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition or editions contain any additions or alterations either in the letter-press or in the maps, plans, or other engravings belonging thereto.

Special Provisions as to certain Works.

12. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who dies first and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof.

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(Appendix II.—Table A in Schedule to Act VI of 1882.)

Cr.

FORM OF BALANCE-SHEET REFERRED TO IN TABLE A.

18

Company made up to

Balance-sheet* of the

Dr.

PROPERTY AND ASSETS.

CAPITAL AND LIABILITIES.

CAPITAL AND LIABILITIES.		PROPERTY AND ASSETS.	
		Rs.	As.
I.—CAPITAL.			
1	SHOWING— The number of shares		7
2	The amount paid per share		
3	If any arrears of calls, the nature of the arrear and the names of the defaulters		
4	The particulars of any forfeited shares		
5	SHOWING— The amount of loans or mortgages or debenture bonds		8
6	The amount of debts owing by the Company—distinguishing— (a) Debts for which acceptances have been given (b) Debts to tradesmen for supplies of stock-in-trade or other articles (c) Debts for law expenses (d) Debts for interest on debentures or other loans (e) Unclaimed dividends (f) Debts not enumerated above		
VI.—RESERVE FUND	SHOWING— The amount set aside from profits to meet contingencies		
VII.—PROFIT AND LOSS.	SHOWING— The disposable balance for payment of dividends, etc		
VIII.—CONTINGENT LIABILITIES.	Claims against the Company not acknowledged as debts. Moneys for which the Company is contingently liable		
		III.—PROPERTY HELD BY THE COMPANY.	
		IV.—DEBTS OWING TO THE COMPANY.	
		V.—CASH AND INVESTMENTS.	
			SHOWING— The nature of investment and rate of interest The amount of cash, where lodged and if bearing interest
			SHOWING— Immovable property—distinguishing— (a) Freehold land (b) buildings (c) Leasehold Moveable property—distinguishing— (d) Stock-in-trade (e) Plant The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss Debts considered good for which the Company hold bills or other securities Debts considered good for which the Company hold no security Debts considered doubtful and bad Any debt due from a Director or other officer of the Company to be separately stated

* See clauses 81 and 82 of the foregoing Table A.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

PART II.

INTERNATIONAL COPYRIGHT.

29. (1) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends ;
- (b) to literary, dramatic, musical and artistic works, or any class thereof, the authors whereof were, at the time of the making of the works, subjects or citizens of a foreign country to which the Order relates, in like manner as if the authors were British subjects ;
- (c) in respect of residence in a foreign country to which the Order relates in like manner as if such residence were residence in the parts of His Majesty's dominions to which the Act extends ;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly :

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act ;
- (ii) the Order in Council may provide that the terms of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates ;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order ;

5. (1) The ¹ [Provincial Government] may ² * * * * make rules for the detention, inspection, disinfection or destruction of any article or class of articles in respect of which a notification has been issued under section 3 or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the ¹ [Provincial Government] may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

6. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE INDIAN COPYRIGHT ACT, 1914.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
 2. Definitions.
-

CHAPTER II.

CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. Application of Copyright Act to British India with adaptations.
 4. Modification of copyright as regards translation of works first published in British India.
 5. Musical works made by resident of, or first published in, British India.
 6. Importation of copies.
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¹ Subs. by the A. O. for "L. G."

² The words "subject to the Control of the G. G.-in C." rep. by the A. O.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made under this Act shall be published in the London Gazette and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books :

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35. (1) In this Act, unless the context otherwise requires,—

“Literary work” includes maps, charts, plans, tables, and compilations ;

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character.

“Artistic work” includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs ;

“Work of sculpture” includes casts and models ;

“Architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction ;

“Engravings” include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs ;

(Chapter I.—Preliminary. Chapter II.—Construction and Modification of the Copyright Act.)

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “the Copyright Act” means the Act of Parliament entitled the¹ Copyright Act, 1911; and

(2) words and expressions defined in the Copyright Act have the same meanings as in that Act.

1 & 2 G.
5, c. 46.

CHAPTER II.

CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to British India of the Copyright Act (a copy of which Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely :—

(1) the powers of the Board of Trade under section 3 shall, in the case of works first published in British India, be exercised by the² [Central Government];

(2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in British India, be exercised by the² [Central Government]; and the confirmation of Parliament shall not be necessary to the exercise of any of these powers;

(3) the references in section 19, sub-section (4), and in section 24, sub-section (1), to arbitration shall be read as references to arbitration in accordance with the law for the time being in force in that part of British India in which the dispute occurs;

(4) as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, the reference in section 22 to the Patents and Designs Act, 1907, shall be construed as a⁷ Edw. VII, c. 29, reference to the Indian Patents and Designs Act, 1911, and the^{II} of 1911. reference in the said section to section 86 of the Patents and Designs Act, 1907, shall be construed as a reference to section 77⁷ Edw. VII, c. 29, of the Indian Patents and Designs Act, 1911;

II of 1911.

(5) as regards works first published in British India, the reference in section 24, sub-section (1), proviso (a), to the London Gazette and two London newspapers shall be construed as a reference to the Gazette of India and two newspapers published in British

¹ Coll. Stat., Vol. II, and *infra*.

² Subs. by the A. O. for “G. G. in C.”

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

- (a) in the United Kingdom, on the 1st day of July, 1912, or such earlier date as may be fixed by Order in Council ;
- (b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion ;
- (c) in the Channel Islands, at such date as may be fixed by the States of those Islands respectively ;
- (d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

SCHEDULES.

FIRST SCHEDULE.

Section 24.

EXISTING RIGHTS.

Existing Right.	Substituted Right.
(a) In the case of Works other than Dramatic and Musical Works.	
Copyright	Copyright as defined by this Act.*
(b) In the case of Musical and Dramatic Works.	
Both copyright and performing right	Copyright as defined by this Act.*
Copyright, but not performing right	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright	The sole right to perform the work in public but none of the other rights comprised in copyright as defined by this Act.

* In the case of an essay, article, or portion forming part of and first published in a review, magazine or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

Session and Chapter.	Short Title.	Extent of Repeal.
38 & 39 Vict., c. 12 .	The International Copyright Act, 1875.	The whole Act.
39 & 40 Vict., c. 36 .	The Customs Consolidation Act, 1876.	Section 42 from "Books wherein" to "such copyright will expire". Sections 44, 45 and 152.
45 & 46 Vict., c. 40 .	The Copyright (Musical Compositions) Act, 1882.	The whole Act.
49 & 50 Vict., c. 33 .	The International Copyright Act, 1886.	Ditto.
51 & 52 Vict., c. 17 .	The Copyright (Musical Compositions) Act, 1888.	Ditto.
52 & 53 Vict., c. 42 .	The Revenue Act, 1889 . . .	Section 1, from "Books first published" to "as provided in that section".
6 Edw. 7, c. 36 . . .	The Musical Copyright Act, 1906 . . .	In section 3 the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886".

THE SECOND SCHEDULE.—[REPEAL OF ENACTMENTS.] Rep. by the
Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE INDIAN MOTOR VEHICLES ACT, 1914.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
Extent and Commencement.
2. Definitions.

PART II.

PROVISIONS OF GENERAL APPLICATION.

3. Prohibition of driving motor vehicles by persons under 18,

(The First Schedule.--Portions of the Copyright Act applicable to British India.)

CHAPTER 46.

An Act to amend and consolidate the Law relating to Copyright.

[16th December, 1911.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

IMPERIAL COPYRIGHT.

Rights.

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original literary, dramatic, musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid ; and
- (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid ;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public ; if the work is unpublished, to publish the work or any substantial part thereof ; and shall include the sole right—

- (a) to produce, reproduce, perform, or publish any translation of the work ;
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work ;
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;

(Part III.—Licensing and Control.)

Provided that no certificate of registration shall be valid ¹[in any area outside the province in which it is granted unless it is issued in accordance with such conditions and restrictions as ²[the Provincial Government of the area] may impose.

11. (1) The ³[Provincial Government], subject to the condition of previous publication, shall make ⁴rules for the purpose of carrying into effect the provisions of this Act and of regulating, in the whole or any part of the territories under its administration, the use of motor vehicles or any class of motor vehicles in public places.

(2) In particular, and without prejudice to the generality of the foregoing powers, the ³[Provincial Government] may make rules for all or any of the following purposes, namely :—

- (a) providing for the registration of motor vehicles, and the conditions subject to which such vehicles may be registered, the fees payable in respect of and incidental to registration, the issue of certificates of registration, the notification of any changes of ownership, and (subject to the provisions of section 10), the area in which ⁵[and the duration for which] certificates of registration shall be valid ;
- (b) providing for facilitating the identification of motor vehicles and the assignment of distinguishing numbers to such vehicles and the displaying of number and name plates thereon, or in any other manner ;
- (c) regulating the construction and equipment of motor vehicles, including the provision and use of lights, bells, horns, brake speed-indicators or other appliances ;
- (d) prescribing the authority by which, and the conditions subject to which, drivers of motor vehicles or any class of such drivers may be licensed, the fees payable in respect of such licences and (subject to the provisions of section 9), the area within which, and the duration for which, licences shall be valid ;
- ⁶[(dd) prescribing the authority by which, and the conditions and limitations subject to which, licences may be suspended or cancelled] ;
- (e) prescribing the conditions subject to which, and the fees (if any) on payment of which, motor vehicles may be let or hired for hire in public places, generally or in any particular public place ;

¹ Ins. by the A. O.

² Subs. by the A. O. for "the G. G. in C."

³ Subs. by the A. O. for "L. G."

⁴ For such rules see the local R. and O., or Motor Vehicle Manuals of the various Provinces.

⁵ Ins. by the Indian Motor Vehicles (Amendment) Act, 1924 (15 of 1924), s. 2.

⁶ Ins. by the Indian Motor Vehicles (Amendment) Act, 1920 (27 of 1920), s. 2.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer ; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries :

(vi) The reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who—

(a) sells or lets for hire, or by way of trade exposes or offers for sale or hire ; or

(b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or

(c) by way of trade exhibits in public ; or

(d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death :

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act, thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work ; and, for the purposes of this proviso, the Board of Trade may make ¹regulations prescribing the mode in which notices are to be given, and the particulars to be given

¹ Regulations called the Indian Copyright Regulations, 1914, have been made under the proviso to s. 3 and in conjunction with sections 14 and 19 of this Act as modified in its application to British India, see Gen. R. and O., Vol. IV, p. 480.

(Part IV.—Motor Vehicles temporarily leaving or visiting British India. Part V.—Miscellaneous.)

their motor vehicles out of British India, or to drivers of such vehicles when proceeding out of British India for the purpose of driving such vehicles, and

- (ii) prescribing the conditions subject to which motor vehicles brought temporarily into British India by persons intending to make a temporary stay there may be possessed, used and driven.

(2) All rules made under this section shall be published in the ¹[Official Gazette]; and, on such publication, shall have effect as if enacted in this Act.

15. Nothing in this Act or in any rule made ²[by the ³[Provincial Government] under section 11] relating to—

- (a) the registration of motor vehicles,
- (b) requirements as to construction, identification or equipment of such vehicles, or
- (c) the licensing or qualifications of drivers of such vehicles,

shall apply in the case of any motor vehicle ⁴[governed by rules made under] clause (ii) of sub-section (1) of section 14, or of any person possessing, using or driving the same, provided that the requirements of ⁵[the said rules] applicable to such vehicle or person are complied with.

PART V.

MISCELLANEOUS.

16. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with fine which may extend to one hundred rupees, and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to two hundred rupees.

17. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

¹ Subs. by the A. O. for " Gazette of India ".

² The words and figures " by the L. G. under s. 11 " were subs. by the Amending Act, 1916 (13 of 1916), s. 2 and Sch., for " thereunder ".

³ Subs. by the A. O. for " L. G. "

⁴ Subs. by the A. O. for " such as is referred to in ".

⁵ Subs. by the A. O. for " any rule made under the said clause and ".

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the rights so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or as the case may be, the title of the plaintiff, and where any such question is in issue, then—

(a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work ;

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the

THE LOCAL AUTHORITIES LOANS ACT, 1914.

ACT NO. IX OF 1914.¹

[28th February, 1914.]

An Act to consolidate and amend the law relating to the grant of loans to Local Authorities.

WHEREAS it is expedient to consolidate and amend the law relating to the borrowing powers of local authorities ; It is hereby enacted as follows :—

1. (1) This Act may be called the Local Authorities Loans Act, 1914.

(2) It extends to the whole of British India, including the Sonthal Parganas.

2. In this Act, " local authority " means any person legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area ;

" funds ", used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority ;

" prescribed " means prescribed by rules made under this Act ; and

" work " includes a survey, whether incidental to any other work or not.

²[" The Government " or " the appropriate Government " means, in relation to cantonment authorities and in relation to port authorities in major ports, the Central Government, and in relation to other local authorities, the Provincial Government.]

3. (1) A local authority may, subject to the prescribed conditions, borrow on the security of its funds or any portion thereof for any of the following purposes, namely :—

- (i) the carrying out of any works which it is legally authorized to carry out,
- (ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity,
- (iii) the prevention of the outbreak or spread of any dangerous epidemic disease,
- (iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),
- (v) the repayment of money previously borrowed in accordance with law :

¹ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 5 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 17 ; and for Proceedings in Council, see *ibid.*, 1914, Pt. VI, pp. 64, 159, 189 and 496.

The Act was extended to British Baluchistan under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), see Gazette of India, 1915, Pt. II, p. 424.

The Act has been amended in its application to the C. P. by the Local Authorities Loan (C. P. Amendment) Act, 1922 (C. P. 1 of 1922).

² Ins. by the A. O.

- (xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon ;
- (xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan ;
- (xiii) the attachment of such funds, and the manner of disposing of or collecting them ;
- (xiv) the accounts to be kept in respect of loans ;
- (xv) the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority is legally authorized to carry out ; and the sanction necessary to such utilization ;

and as to all other matters incidental to carrying this Act into effect.

* * * * *

(3) All rules made under this Act shall be published * * * in the [Official Gazette], and on such publication, shall have effect as if enacted in this Act.

5. If any money borrowed in accordance with the provisions of this Act or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the [appropriate Government], if itself the lender, may, and, if the [appropriate Government] is not the lender, shall, on the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in his behalf by the [appropriate Government], shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings :

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

6. (1) Subject to the provisions of section 26 of the Indian Paper Currency Act, 1910,¹ the local authorities mentioned in Schedule I and any other local authority to which the [appropriate Government] may, by notification in the [Official Gazette], extend the provisions of this section, may, with the previous sanction of the [appropriate Government], borrow money

¹ Sub-section (2) was rep. by the Devolution Act, 1929 (35 of 1929), s. 2 and Sch. I.

² Certain words were rep. 1912.

³ Subs. by the A. O. for "local Official Gazette".

⁴ Subs. by the A. O. for "L. G."

⁵ Rep. by the Indian Paper Currency Act, 1923 (16 of 1923), which in turn has been rep. by the Reserve Bank of India Act, 1934 (2 of 1934) : see now s. 31 of the latter Act.

⁶ Subs. by the A. O. for "G. G. in O."

⁷ Subs. by the A. O. for "Gazette of India."

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

(3) ¹The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

Delivery of Books to library.

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depot in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin; and, subject to the provisions of this section, the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto

¹ See footnote to p. 3.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends ; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion : Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion that dominion shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion ; but save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends :

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression " a dominion to which this Act extends " includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

(iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order ;

(v) in applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country ;

(vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section 5 of the International Copyright Act, 1886.

49 a.
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(2) An Order in Council under this section may extend to all the several countries named or described therein.

30. (1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possessions specified in the Order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like Orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self-governing dominions and the provisions of this Part of this Act shall, with necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any Order any part of his dominions, not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such Order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III.

SUPPLEMENTAL PROVISIONS.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

ing, receiving or taking, the same according to the true intent of the provisions hereinbefore contained nor shall the same or any of them be held by any Court of Law or Equity to have vested in any such person as aforesaid for any greater interest or estate than during his life and every attempt to make any assignment or assurance contrary to the intention of this Act shall be and is hereby declared and enacted to be void.

8. If at any time or times hereafter the said Sir Sassoon Jacob David or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act and for that purpose and with that intent shall, at his or her own expense, transfer and deliver to the Corporation any stocks, funds or securities of the nature authorized by section 3 then and as often as the same shall happen the said Corporation shall accept such stocks, funds and securities, and the same shall thenceforth be held by the Corporation upon the same trusts and for the same purpose as are declared by this Act with regard to the Trust Funds referred to in section 3 or upon such of them as shall then be subsisting and capable of taking effect PROVIDED ALWAYS that the total amount of the promissory notes, bonds, stocks, funds, and securities for the time being subject to the trusts of this Act shall at no time exceed Rupees ninety lacs.

9. It shall be lawful for the Corporation out of the money which shall come to their hands by virtue of the trust and provisions of this Act to retain and reimburse themselves all costs, damages and expenses which they shall or may sustain, expend or disburse in or about the execution of the aforesaid powers, trusts and provisions or in relation thereto.

THE DELHI LAWS ACT, 1915.

ACT No. VII OF 1915.¹

[22nd March, 1915.]

An Act to declare the law in force in certain territory added to the Province of Delhi.

WHEREAS by proclamation published in Notification No. 984-C., dated 22nd day of February, 1915, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule I, which was formerly included within the United Provinces of Agra and Oudh, and to include the said territory in the Province of Delhi with effect from the 1st April, 1915 ;

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 19 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, pp. 110 and 310.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

“Photograph” includes photo-lithograph and any work produced by any process analogous to photography;

“Cinematograph” includes any work produced by any process analogous to cinematography;

“Collective work” means—

(a) an encyclopædia, dictionary, year-book, or similar work,

(b) a newspaper, review, magazine, or similar periodical; and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

“Infringing,” when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation made or imported in contravention of the provisions of this Act;

“Performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

“Delivery,” in relation to a lecture, includes delivery by means of any mechanical instrument;

“Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

“Lecture” includes address, speech, and sermon;

“Self-governing dominion” means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order in Council.

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring

ing, receiving or taking, the same according to the true intent of the provisions hereinbefore contained nor shall the same or any of them be held by any Court of Law or Equity to have vested in any such person as aforesaid for any greater interest or estate than during his life and every attempt to make any assignment or assurance contrary to the intention of this Act shall be and is hereby declared and enacted to be void.

8. If at any time or times hereafter the said Sir Sassoon Jacob David or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act and for that purpose and with that intent shall, at his or her own expense, transfer and deliver to the Corporation any stocks, funds or securities of the nature authorized by section 3 then and as often as the same shall happen the said Corporation shall accept such stocks, funds and securities, and the same shall thenceforth be held by the Corporation upon the same trusts and for the same purpose as are declared by this Act with regard to the Trust Funds referred to in section 3 or upon such of them as shall then be subsisting and capable of taking effect PROVIDED ALWAYS that the total amount of the promissory notes, bonds, stocks, funds, and securities for the time being subject to the trusts of this Act shall at no time exceed Rupees ninety lacs.

9. It shall be lawful for the Corporation out of the money which shall come to their hands by virtue of the trust and provisions of this Act to retain and reimburse themselves all costs, damages and expenses which they shall or may sustain, expend or disburse in or about the execution of the aforesaid powers, trusts and provisions or in relation thereto.

THE DELHI LAWS ACT, 1915.

ACT NO. VII OF 1915.¹

[22nd March, 1915.]

An Act to declare the law in force in certain territory added to the Province of Delhi.

WHEREAS by proclamation published in Notification No. 984-C., dated 22nd day of February, 1915, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule I, which was formerly included within the United Provinces of Agra and Oudh, and to include the said territory in the Province of Delhi with effect from the 1st April, 1915 ;

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1915, Pt. V, p. 19 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, pp. 110 and 310.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings :—

“ Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

“ Performing right,” in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Geo. 2, c. 13 . . .	The Engraving Copyright Act, 1734	The whole Act.
7 Geo. 3, c. 38 . . .	The Engraving Copyright Act, 1767	Ditto.
15 Geo. 3, c. 53 . . .	The Copyright Act, 1775 . . .	Ditto.
17 Geo. 3, c. 57 . . .	The Prints Copyright Act, 1777 . . .	Ditto.
51 Geo. 3, c. 56 . . .	The Sculpture Copyright Act, 1814	Ditto.
3 & 4 Will. 4, c. 15 . . .	The Dramatic Copyright Act, 1833 . . .	Ditto.
5 & 6 Will. 4, c. 65 . . .	The Lectures Copyright Act, 1835 . . .	Ditto.
6 & 7 Will. 4, c. 59 . . .	The Prints and Engravings Copyright (Ireland) Act, 1836.	Ditto.
6 & 7 Will. 4, c. 110 . . .	The Copyright Act, 1836 . . .	Ditto.
5 & 6 Viet., c. 45 . . .	The Copyright Act, 1842 . . .	Ditto.
7 & 8 Viet., c. 12 . . .	The International Copyright Act, 1844.	Ditto.
10 & 11 Viet., c. 95 . . .	The Colonial Copyright Act, 1847 . . .	Ditto.
15 & 16 Viet., c. 12 . . .	The International Copyright Act, 1852.	Ditto.
25 & 26 Viet., c. 68 . . .	The Fine Arts Copyright Act, 1862	Sections 1 to 6. In section 8 the words “ and pursuant to any Act for the protection of copyright engravings”, and “ and in any such Act as aforesaid.” Sections 9 to 12.

7. [*Amendment of section 7 of Act XIII of 1912.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

8. This Act shall be construed with, and deemed to be part of, the Delhi Laws Act, 1912.

SCHEDULE I.

TERRITORY ADDED TO THE PROVINCE OF DELHI.

(*See section 2.*)

Revenue estates of—

1. Subehpur.
2. Jagatpur.
3. Baqiabad.
4. Beharipur.
5. Saadatpur Mahal Gujran.
6. Saadatpur Musalmanan.
7. Saadatpur Amad Delhi.
8. Wazirabad.
9. Khajuari Paramad.
10. Khajuri Khas.
11. Garhi Mendu.
12. Timarpur.
13. Chandrawal.
14. Usmanpur.
15. Ghonda patti Gujran Khadar.
16. Ghonda patti Chauhan Khadar.
17. Andhavli.
18. Kaithwara.
19. Silampur Amad Delhi.
20. Ghondli Khadar.
21. Jatwara Khurd.
22. Mubarakpur Reti.
23. Shakarpur Khadar.
24. Nagla Manchi.
25. Shamspur.
26. Gharaunda Nimka Khadar.
27. Nagli Razapur.
28. Chilla Sarauda Khadar.
29. Qarawalnagar *urf* Dharauti Kalan.
30. Jivanipur Johripur.
31. Mustafabad.
32. Mirpur Turk.
33. Ziauddinpur.
34. Khanpur Dhani.
35. Maujpur.
36. Ghonda patti Gujran Bangar.

SECTIONS.

4. Duty to stop vehicle for regulating traffic and in case of accident.
5. Reckless driving.

PART III.

LICENSING AND CONTROL.

6. Licensing of drivers.
7. Transfer of licence.
8. Production of licence.
9. Extent of validity of licence to drive.
10. Registration of motor vehicles.
11. Power of Provincial Government to make rules.
12. Posting of notices.
13. Power to Provincial Government to exclude areas or motor vehicles from this Part.

PART IV.

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING BRITISH INDIA.

14. Power of Central Government to make rules.
15. Saving.

PART V.

MISCELLANEOUS.

16. Penalties.
17. Cognizance of offences.
18. Cancellation and suspension of licence and disqualification for obtaining licence.
19. [*Repealed.*]

SCHEDULE.—[*Repealed.*]

ACT No. VIII OF 1914.¹

[28th February, 1914.]

An Act to consolidate and amend the law relating to motor vehicles in British India.

WHEREAS it is expedient to consolidate and amend the law relating to motor vehicles in British India ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Indian Motor Vehicles Act, 1914.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 186 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 59 ; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 566, and *ibid.*, 1914, Pt. VI, pp. 64, 325 and 496.

This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has been amended in its application to Bombay by the Indian Motor Vehicles (Bombay Amendment) Act, 1931 (Bom. 7 of 1931) and the Indian Motor Vehicles (Bombay Amendment) Act, 1935 (Bom. 14 of 1935) ; to U. P., by the Indian Motor Vehicles (U. P. Amendment) Act, 1935 (U. P. 6 of 1935).

SCHEDULE II—*contd.*

Year.	Number.	Short title.	Remarks.
1	2	3	4
<i>Punjab Acts.</i>			
1900	II	The Punjab Land Preservation (<i>Chosh</i>) Act, 1900.	....
1912	V	The Colonization of Government Lands (Punjab) Act, 1912.	....
1913	I	The Punjab Pre-emption Act, 1913 . . .	....
"	II	The Redemption of Mortgages (Punjab) Act, 1913.	....

SCHEDULE III.

ENACTMENTS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH WHICH WILL CONTINUE TO BE IN FORCE IN THE TERRITORY ADDED TO THE DELHI PROVINCE.

(See section 3.)

Year.	Number.	Short title.	Remarks.
1	2	3	4
<i>Acts of the Governor General of India in Council.</i>			
1882	IV	The Transfer of Property Act, 1882 . . .	....
"	V	The Indian Easements Act, 1882 . . .	....
1891	VIII	An Act to extend the Indian Easements Act, 1882, to certain areas in which that Act is not in force.	....
<i>United Provinces Acts.</i>			
1901	II	The Agra Tenancy Act, 1901 . . .	....
"	III	The United Provinces Land Revenue Act, 1901.	....
1904	I	The United Provinces General Clauses Act, 1904.	In so far as it applies to the Agra Tenancy Act, 1901, and the United Provinces Land Revenue Act, 1901.

(Part II.—Provisions of General Application. Part III.—Licensing and Control.)

(b) when required to do so by any person having charge of any animal if such person apprehends that the animal is, or will be, alarmed by the motor vehicle, or

(c) when he knows or has reason to believe that an accident has occurred to any person or to any animal or vehicle in charge of a person owing to the presence of the motor vehicle, and he shall also, if so required, give his name and address and the name and address of the owner of such motor vehicle.

5. Whoever drives a motor vehicle in a public place recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the place, and the amount of traffic which actually is at the time or which might reasonably be expected to be, in the place, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

PART III.

LICENSING AND CONTROL.

6. No person shall drive a motor vehicle in a public place unless he is licensed in the prescribed manner, and no owner or person in charge of a motor vehicle shall allow any person who is not so licensed, to drive it :

Provided that, subject to rules made by the ¹[Provincial Government] in this behalf, this section shall not apply to a person receiving instruction in driving a motor vehicle.

7. The holder of a licence shall not allow it to be used by any other person.

8. The driver of a motor vehicle shall produce his licence upon demand by any police-officer.

9. Every licence to drive a motor vehicle shall be valid in such area as may be specified therein :

Provided that no licence shall specify any area outside the Province in which it is granted, unless it is issued ²* * * in accordance with such conditions and restrictions as ³[the Provincial Government of that area] may impose.

10. (1) The owner of every motor vehicle shall cause it to be registered in the prescribed manner.

(2) Such registration shall be valid in such area as may be specified in the certificate of registration :

¹ Subs. by the A. O. for "L. G."

² The words "by such authority and" rep. by the Second Repealing and Amending Act, 1914 (17 of 1914), s. 3 and Sch. II.

³ Subs. by the A. O. for "the G. G. in C."

SECTIONS.

21. Power to augment the funds and securities subject to the Settlement, provided that total amount of funds subject to the Settlement shall not exceed fifty lakhs.
22. Provision as to insurance of Mazagon Castle, and other houses or buildings purchased in lieu thereof.
23. Directions for keeping Mazagon Castle, and other houses or buildings purchased in lieu thereof, in repair.
24. Power to Trustees to sell lands subject to Settlement.
25. Directions as to how sale may be made.
26. Direction as to investment of proceeds of sale of lands.
27. Declaration of Trusts as to investments of proceeds of sale of lands.
28. Power to Baronet for the time being to enter into arrangement with Government as to land-revenue payable in respect of land purchased under section 8.
29. Indemnity of Trustees.
30. General saving clause.

ACT NO. X OF 1915.¹

[8th September, 1915.]

An Act for repealing Act No. XX of 1860 entitled " An Act for settling Promissory Notes of the Government of India, producing an annual income of one lakh of rupees and a Mansion House and hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet, lately conferred on him and the heirs male of his body, by Her present Majesty Queen Victoria, and for other purposes connected therewith," and for resettling the said Promissory Notes, Mansion House and hereditaments and for other purposes connected therewith.

WHEREAS by Letters Patent of Her late Majesty Queen Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, dated at Westminster on or about the 6th day of August in the 21st year of Her said late Majesty's reign, and by Warrant under Her said late Majesty's sign-manual, Her said late Majesty made known that she, of her special grace, certain knowledge and mere motion had erected, appointed and created Sir Jamsetjee Jejeebhoy, then of Bombay, Knight, but then deceased (a man eminent for family inheritance, estate and integrity of manner), to and into the dignity, state, and degree of a Baronet, and him, the said Sir Jamsetjee Jejeebhoy for Her said late Majesty, her heirs, and successors, she did erect, appoint, constitute and create a Baronet, by the said

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 13; and for Proceedings in Council see *ibid.*, Pt. VI, pp. 15 and 440.

(Part III.—*Licensing and Control.* Part IV.—*Motor Vehicles temporarily leaving or visiting British India.*)

- (f) prescribing the precautions to be observed when motor vehicles are standing in any public place ;
- (g) limiting the speed at which motor vehicles may be driven generally or in any particular public place ;
- (h) prohibiting or regulating the driving of motor vehicles in public places, where their use may, in the opinion of the ¹[Provincial Government], be attended with danger or inconvenience to the public ; and
- (i) providing generally for the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property, or of obstruction to traffic.

(3) All rules made under this section shall be published in the ²[Official Gazette] ; and, on such publication, shall have effect as if enacted in this Act.

12. The prescribed authority shall give, in the prescribed manner, public notice of any rule, made by the ¹[Provincial Government] under section 11, prohibiting or regulating the driving of motor vehicles in any public place ; or limiting the speed of motor vehicles in any such place ; and for the purpose of giving effect to any such rule, shall display conspicuous notices at or near the place to which the rule refers.

13. The ¹[Provincial Government] may, by notification in the ²[Official Gazette], exclude any area specified in such notification from the operation of this Part ; and may, by a like notification, exempt either generally or for a specified period any motor vehicle or class of motor vehicles from the operation of all or any of the provisions of this Part.

PART IV.

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING BRITISH INDIA.

14. (1) The ³[Central Government] may ⁴[for the purpose of implementing any international Convention relating to motor traffic] make ⁵rules for all or any of the following purposes, namely :—

- (i) for the grant and authentication of any travelling passes, certificates or authorities for the use of persons temporarily taking

¹ Subs. by the A. O. for " L. G. "

² Subs. by the A. O. for " local Official Gazette ".

³ Subs. by the A. O. for " G. G. in C. "

⁴ Ins. by the A. O.

⁵ For such rules, see the Motor Vehicles International Circulation Rules, published with Home Dept. Notification No. F.-438/32, dated 1st August, 1933.

AND WHEREAS all the possible Beneficiaries of the Trust under the said Act now living have agreed to the above proposals, with the exception of those relating to the sale of the said Mansion House and hereditaments :

AND WHEREAS all the possible Beneficiaries of the Trust under the said Act, with the exception of two possible Beneficiaries, have agreed to the said proposals relating to the sale of the said Mansion House :

AND WHEREAS the objections advanced by and on behalf of the said two possible Beneficiaries have been duly considered by the Governor General in Council and have been overruled :

AND WHEREAS it is deemed expedient to confer the said powers, and, for that purpose and for other divers good reasons, it is expedient to repeal the said Act XX of 1860, and to substitute the following Act in lieu thereof :

It is hereby enacted as follows :—

1. (1) This Act may be called “The Sir Jamsetjee Jejeebhoy Baronetcy Act, 1915,” and

(2) It shall come into force at once.

2. The said Act No. XX of 1860 is hereby repealed, and the said Promissory Notes of the [Central Government], of the nominal value of rupees twenty-two lakhs, fifty-four thousand and four hundred, shall henceforth cease to be vested in the Corporation created and constituted by the said Act No. XX of 1860, and the Mansion House and other hereditaments, called Mazagon Castle, situate in the Island of Bombay, with their rights, members and appurtenances, of which the said First Baronet was seized to him and his heirs, shall, by force of this Act, from and immediately after the passing of this Act, either as to the whole or, as the case may be, as to such parts thereof as shall not have been sold, transferred, and conveyed under the powers conferred by section 10, stand limited, until such time as the same shall have been sold, transferred, and conveyed under the powers conferred by the said section 10, to the uses following (that is to say) : to the use of the present, that is to say, the Fifth Baronet, for and during the term of his natural life, and from and immediately after his decease, to the use of the heirs male of the body of Sir Jamsetjee Jejeebhoy, First Baronet, who may succeed to the title of Baronet conferred by the said Letters Patent as aforesaid, but as to each one of the said heirs male to the use of such heir male during the term of his natural life only, and, upon failure and default of heirs male of the body of the said Sir Jamsetjee Jejeebhoy, First Baronet, to whom the said title and dignity of Baronet may descend as aforesaid to the use of the heirs, and assigns for ever of the said Sir Jamsetjee Jejeebhoy, the Second Baronet, which ultimate remainder or reversion it shall be lawful for the heirs and assigns of the said Second Baronet, at any time or times during the continuance of the said title and dignity of Baronet and until there shall be such a failure of heirs male of the body of the said First Baronet as aforesaid, to grant, convey, devise, and dispose of by Deed or Will or by any other

Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force.

¹[Provided further that, in the case of loans other than loans made by the ²[appropriate Government], no amount exceeding twenty-five lakhs of rupees shall be borrowed unless the terms, including the date of flotation, of such loan have been approved by the ³[appropriate Government].]

(2) Nothing in this section shall be deemed to authorize any local authority—

(a) to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds, or

(b) to borrow money by means of the issue of bills or promissory notes payable within any period not exceeding twelve months.

4. (1) The ⁴[appropriate Government] may make ⁵rules consistent with this Act as to—

(i) the nature of the funds on the security of which money may be borrowed ;

(ii) the works for which money may be borrowed ;

(iii) the manner of making applications for permission to borrow money ;

(iv) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries ;

(v) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published ;

(vi) the cases in which the ²[appropriate Government] may make loans ⁶* * * ;

⁷[(vii) the cases in which local authorities may take loans from persons other than the ²[appropriate Government] ;]

(viii) the manner of recording and enforcing the conditions on which money is to be borrowed ;

(ix) the manner and time of making or raising loans ;

(x) the inspection of any works carried out by means of loans ;

¹ This proviso was ins. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

² Subs. by the A. O. for " L. G. "

³ Subs. by the A. O. for " G. G. in C. "

⁴ Subs. by the A. O. for the words " L. G. " which were subs. by Act 38 of 1920, s. 2 and Sch. I, for " G. G. in C. "

⁵ For rules applying to all local authorities in Chief Commissioners' Provinces and to Cantonment authorities and port authorities of major ports in Governors' Provinces, see the local Authorities Loans (Central) Rules, 1937 (published in Gazette of India, 1937, Pt. I, p. 1902); and for rules applying to other local authorities in Governors' Provinces, see the Local Authorities Loans Rules, 1915 (Gen. R. and O., Vol. IV, p. 504).

⁶ Certain words were rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁷ Subs. by s. 2 and Sch. I., *ibid.*, for the original clause.

Provided that the total sum raised by the Corporation under the power conferred upon them by this section for the sale of the said securities above-mentioned shall not exceed two lakhs and twenty-five thousand rupees.

10. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent, shall have power, with the written consent and approval of the Corporation, to sell, transfer, and convey freed and discharged from all uses and trusts created by this Act, the said Mansion House and other hereditaments, called Mazagon Castle, situate in the Island of Bombay, with their rights, members and appurtenances, and either in one parcel or in several parcels, and either at one time or from time to time, upon condition that the proceeds of sale thereof shall be paid by the purchaser thereof direct to the Corporation.

11. The person for the time being entitled to, and in the enjoyment of, the title of Baronet, conferred by the said Letters Patent may, from time to time, request the Corporation, in writing, to pay, out of the proceeds of sale of the said Mansion House and other hereditaments, called Mazagon Castle, if and when sold, the purchase money of any land which may be purchased by the person for the time being entitled to, and in the enjoyment of, the said title of Baronet, under the powers conferred by section 8 ; and all costs, charges, and expenses of, and incidental to the purchase and acquisition of the same, and of the conveyance, and assurance of the same to the Corporation, and also to pay all costs and expenses of, and incidental to the erection thereon of, a Mansion House, with the necessary or suitable accessory buildings, and to pay the purchase money of any land, with a house, or other building, standing thereon, which may be purchased by the person for the time being entitled to, and in the enjoyment of, the said title of Baronet, under the powers conferred by this Act, and all costs, charges and expenses of, and incidental to, the purchase and acquisition of the same, and of the conveyance, and assurance of the same to the Corporation, and also to pay all costs, and expenses of, and incidental to the pulling down of the said buildings, or any of them and of erecting a Mansion House, with the necessary or suitable accessory buildings, in lieu thereof, or of altering, and adding to, such buildings, for the purpose of converting the same into a Mansion House, with the necessary or suitable accessory buildings, as the case may be, and the Corporation shall, upon such request being made as aforesaid, make such payments out of the proceeds of sale of the said Mansion House and other hereditaments called Mazagon Castle :

Provided that the total sum expended by the Corporation, under the powers conferred by this section, out of the proceeds of sale of the said Mansion House and other hereditaments, called Mazagon Castle, shall not exceed the sum of two lakhs and seventy-five thousand rupees.

12. All lands and buildings which may be purchased by the person for the time being entitled to, and in the enjoyment of, the title of Baronet under the said Letters Patent under the powers conferred by section 8, with their rights, members, and appurtenances shall be conveyed to the Corporation, and the Corporation shall hold the same, and also all buildings which may

by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force :

Provided that the amount of the bills or promissory notes which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow.

(2) The ¹[appropriate Government] may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Except as provided by or under this Act, no local authority shall, for any purpose, borrow money upon, or otherwise charge its funds ; and any contract otherwise made for that purpose after the passing of this Act shall be void :

Provided that nothing herein contained shall be deemed—

(a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force ; or

(b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

²[8. The remedy mentioned in section 5 shall be available for the recovery of any money lent by the Secretary of State in Council to any local authority before the fifth day of September, eighteen hundred and seventy-one, and the interest due on such money.]

9. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

SCHEDULE I.

(See section 6.)

The Corporation of Calcutta.

The Commissioners for the Port of Calcutta.

The Commissioners for the Port of Chittagong.

The Municipal Corporation of the City of Bombay.

The Trustees of the Port of Bombay.

The Corporation of Madras.

The Trustees for the Port of Madras.

3* * * * *

¹ Subs. by the A. O. for " G. G. in C."

² Subs. by the A. O. for the original section.

³ The entries relating to the Municipal Committee of Rangoon and the Commissioners for the Port of Rangoon, rep. by the A. O.

and premises in and upon some one or more of the investments authorised by this Act for the investment of the said Trust Funds ; and shall, upon such Baronet attaining his majority, pay over, transfer, and assign to him, or as he shall direct and for his own absolute benefit, the said investments and all accumulations thereof.

16. Provided always that in case any person who, for the time being shall be the heir male of the body of the said First Baronet to whom the said title of Baronet shall have descended, shall for the space of one whole year after he shall, by virtue of this Act, become entitled to the dividends, interest, and income of the said stocks, funds, and securities or to the possession or receipts of the rents and profits of the said hereditaments ; or, being then under age, shall for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of " Jamsetjee Jejeebhoy " as hereinbefore enacted ; or in case any such person having so used those names, shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest of the person who shall so refuse or neglect to use, or, having used, shall so discontinue to use, the said names of " Jamsetjee Jejeebhoy " shall, during the remainder of his respective natural life, be suspended ; and that during any and every such suspension, the dividends, interest, and income of the said stocks, funds and securities, and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who as heir male of the body of the First Baronet, would have succeeded to, and been in the enjoyment of, the title of Baronet conferred by the said Letters Patent, in case the persons so refusing or neglecting to use, or discontinuing to use, the said names of " Jamsetjee Jejeebhoy " had departed this life ; but if there should be no such heir male, then to the person or persons who would be entitled to the same in case there had then been a total failure of issue male of the First Baronet entitled to the said dignity of Baronet.

17. It shall be lawful for Sir Jamsetjee Jejeebhoy, Fifth Baronet, and for any person upon whom the said title of Baronet shall, from time to time, descend when in the actual enjoyment of the said title, and who shall not refuse, neglect, or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of " Jamsetjee Jejeebhoy " as hereinbefore enacted, either before or after his marriage with any woman or women by any Deed or Deeds, writing or writings, with or without power of revocation, to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to any annuity or annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power), to limit and appoint unto any woman or women whom he shall marry, for her or their life or lives, and for her or their jointure or jointures, in bar of dower or other legal or customary rights, any annuity or yearly sum not exceeding the sum of rupees ten thousand, clear of all taxes, charges and deductions whatsoever, to commence and take effect immediately after the decease of the person

Sir Sassoon Jacob David during his lifetime and every succeeding Baronet being a major shall be trustees of the aforesaid securities, and be likewise the trustees for carrying into execution the general purposes and powers of this Act, in relation to the said securities.

And whereas it is expedient that the aforesaid purposes should be effected by an Act of the Council of the Governor General for making laws and regulations.

It is hereby enacted as follows :—

1. This Act may be called “ The Sir Sassoon Jacob David Baronetcy Act, 1915 ”.

2. Douglas Dewar, Esquire, the Accountant-General of Bombay, the Honourable Mr. George Carmichael, the Chief Secretary to the Government of Bombay, and Arthur Henry Addenbrooke Simcox, Esquire, the Collector of Bombay, and their successors, the Accountant-General of Bombay, the Chief Secretary to the Government of Bombay, and the Collector of Bombay, all for the time being, and the said Sir Sassoon Jacob David, Baronet, and after his death the person for the time being holding the said Baronetcy being a major, shall be and they are hereby created a Corporation with perpetual succession and a common seal under the style and title of the “ Trustees of the Sir Sassoon Jacob David Baronetcy ” and the said Douglas Dewar, Esquire, the Honourable Mr. George Carmichael and Arthur Henry Addenbrooke Simcox, Esquire, and their respective successors in office and the said Sir Sassoon Jacob David, Baronet, and after his death the person for the time being holding the Baronetcy being a major (hereinafter styled “ the Corporation ”) shall be and they are hereby constituted as such Corporation, the Trustees for executing the powers and purposes of this Act.

3. Immediately from and after the passing of this Act the said securities being debentures of the Municipal Corporation of the City of Bombay of the nominal value of Rupees Fourteen Lacs bearing interest at the rate of four per cent. per annum and bonds of the Trustees for the Improvement of the City of Bombay of the nominal value of Rupees Sixteen Lacs bearing interest at the rate of four per cent. per annum, such debentures and bonds being of the aggregate nominal value of Rupees Thirty Lacs and producing an annual income of about Rupees One Lac and Twenty Thousand, shall be assigned and transferred into the name of the Corporation, who shall hold the same upon the trust and for the purposes hereinafter expressed concerning the same (that is to say), upon trust to continue to hold the said securities until such time as the same shall be discharged by the Municipal Corporation of the City of Bombay or the Trustees for the Improvement of the City of Bombay, as the case may be, or shall be sold by the Corporation at the request in writing of the person who shall for the time being be in the enjoyment of the income of the said securities, and on such discharge or sale to invest the sum to be received on such occasion with all convenient despatch in or upon any stocks, funds or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great

or customary rights an annuity or yearly sum not exceeding the sum of Rupees fifteen thousand clear of all taxes, charges and deductions whatsoever to commence and take effect immediately after the decease of the person appointing the same and to the issuing and payable out of the dividends, interest and annual income of the Trust Funds and to be paid and payable in equal half-yearly payments, the first of the said half-yearly payments to be made at the expiration of six calendar months after the decease of the person who shall have appointed such annuity or yearly income. Provided that the payment of the said annuity to the widow of the person appointing the same shall be subject to the obligation on her part of maintaining and educating each and every minor child (except the Baronet for the time being) of such person during their respective minorities. After the death or remarriage of the said widow the said annuity shall be paid to the Baronet for the time being to be held by him (or if the Baronet for the time being shall be a minor by the Corporation) upon trust to maintain and educate each and every such child during their respective minorities and shall continue to be so held in trust until the youngest child shall attain majority. Provided further that notwithstanding any such appointment as aforesaid no widow of a Baronet shall become entitled to the sum so appointed if she shall also become entitled to the income of the one-eighth part of the Trust Funds on the failure of the male issue of the said Sir Sassoon Jacob David as provided in section 3.

of 6. Provided always that the said interest, dividends and annual income of the Trust Funds shall not at one and the same time be subject to the payment of more than the yearly sum of Rupees thirty thousand for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of or under the same power in said interest, dividends and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of Rupees thirty thousand the yearly sum which shall occasion such excess or such part thereof as shall occasion the same shall during the time of such excess abate and not be payable.

7. Neither the said Sir Sassoon Jacob David nor any of the heirs male of his body in whose favour (subject to the two last preceding sections) the trusts are hereinbefore declared of the said interest, dividends and annual income of the Trust Funds, shall transfer, dispose of, charge or encumber the Trust Funds or any part thereof or the interest, dividends and annual income thereof or any part thereof for any greater or larger estate, interest or time, than during his natural life, nor shall any such person as aforesaid either alone or jointly with any other or others of them or with any other person or persons, whomsoever have any power to discontinue or bar any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the said interests, dividends and annual income of the Trust Funds or to prevent any such person or persons from succeeding to, holding or enjoy-

for other lands or hereditaments in the Island of Bombay any lands or hereditaments which are subject to the trusts of the Settlement effected by this Act or any part thereof, and upon any such exchange, to give or receive any money for equality of exchange :

Provided that the Corporation shall not sell the Mansion House, if any, or the buildings accessory thereto, which may be purchased, or erected under the powers conferred by this Act, without having first consulted all persons who may be interested in the said Mansion House, either by way of reversion, or otherwise, and who may have attained their respective ages of majority :

Provided further that the foregoing proviso shall apply to the said Mansion House, and the buildings accessory thereto only, and shall not apply to any lands, hereditaments, or premises, other than the land upon which the said Mansion House and the buildings accessory thereto, may stand, or be erected, which may be purchased under the powers conferred by this Act,

25. Any sale which may be effected under the powers conferred by section 24 may be made either by public auction or private contract, and the Corporation may make any stipulations as to title, or evidence, or commencement of title, or otherwise, in any conditions of sale or contract for sale or exchange, of the said hereditaments or any part thereof, and may buy in, or rescind, or vary any contract for sale or exchange, and re-sell, or re-exchange, without being responsible for any loss occasioned thereby.

26. The Corporation shall, with all convenient speed, invest all moneys which may be received by them upon any sale or exchange which shall be effected by them under the powers conferred by section 24, either in the purchase of any one or more of the securities specified in section 6, or in the purchase of other lands and hereditaments in the Island of Bombay suitable for the support of the dignity of the said title ; provided that every such purchase of lands or hereditaments be made with the consent in writing of the person for the time being entitled to, and in the enjoyment of, the said title conferred by the said Letters Patent.

27. The Corporation shall hold all stocks, funds, and securities which may be purchased by them in pursuance of the directions contained in section 26 upon the same trusts, and to the same ends, intents, and purposes, and with the same powers as are by this Act declared of and concerning the trust funds of the Settlement effected by this Act, and shall hold all lands and hereditaments may be purchased by them in pursuance of the directions contained in section 26 upon the same trusts and to the same ends, intents, and purposes, and with the same powers as are declared by this Act of and concerning all lands and hereditaments which may be purchased under the powers conferred by section 8.

28. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent as aforesaid, shall have power with a view to the more advantageous sale of the land occupied by the said Mansion House and other hereditaments, called Mazagon Castle, in pursuance of the powers in that behalf conferred by section 10, and,

Limitation
of amount of
interest.

in section 3.

6. Provided always that the said interest, dividends and annual income of the Trust Funds shall not at one and the same time be subject to the payment of more than the yearly sum of Rupees thirty thousand for or in respect of any jointure or jointures which shall be made in pursuance of the power herinbefore contained, so that if by virtue of or under the same power in said interest, dividends and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of Rupees thirty thousand the yearly sum which shall occasion such excess or such part thereof as shall occasion the same shall during the time of such excess abate and not be payable.

Limitation
of interest
to life of
trustees.

7. Neither the said Sir Sassoon Jacob David nor any of the heirs male of his body in whose favour (subject to the two last preceding sections) the trusts are hereinbefore declared of the said interest, dividends and annual income of the Trust Funds, shall transfer, dispose of, charge or encumber the Trust Funds or any part thereof for any greater or larger estate, interest income thereof or any part thereof for any person as aforesaid or time, than during his natural life, nor shall any such person as aforesaid either alone or jointly with any other or others of them or with any other person or persons, whomsoever have any power to discontinue or bar any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the said interests, dividends and annual income of the Trust Funds or to prevent any such person or persons from succeeding to, holding or enjoying

THE NORTH-WEST FRONTIER CONSTABULARY ACT, 1915.

CONTENTS.

SECTIONS.

1. Short title, extent, application and commencement.
2. Definitions.
3. Power to maintain Frontier Constabulary.
4. Constitution of Constabulary.
5. Appointment and powers of superior officers.
6. Appointment of subordinate officers and men.
7. Superintendence, control and administration of Constabulary.
8. More heinous offences.
9. Less heinous offences.
10. Minor punishments.
11. Place of imprisonment, and liability to dismissal on imprisonment.
12. Deduction from pay and allowances.
13. Collective fines.
14. Resignation and withdrawal from the Constabulary.
15. General duties of members of the Constabulary.
16. Powers and duties conferable and imposable on members of the Constabulary.
17. Protection for acts of members of the Constabulary.
18. Authority to confer exclusive powers of Sessions Court on Deputy Commissioner.
19. Criminal powers conferred within British India to be exercisable beyond British India.
20. Application of Act to other bodies enrolled for service on Frontier.
21. Power to make rules.
22. [*Repealed.*]

THE SCHEDULE.—CONDITIONS OF SERVICE.

ACT No. XIII OF 1915.¹

[1st October, 1915.]

An Act to provide for the regulation of the Frontier Constabulary in the North-West Frontier Province.

WHEREAS it is expedient to provide for the regulation of the Frontier Constabulary in the North-West Frontier Province ; It is hereby enacted as follows :—

1. (1) This Act may be called the North-West Frontier Constabulary Act, 1915 ;

¹ For Statement of Objects and Reasons see *Gazette of India* 1915, Pt. V, p. 56 ; for Proceedings in Council, see *ibid* Pt. VI, pp. 439 and 502.

or customary rights an annuity or yearly sum not exceeding the sum of Rupees fifteen thousand clear of all taxes, charges and deductions whatsoever to be received and take effect immediately after the decease of the person appointing the same and to the issuing and payable out of the dividends, interest and annual income of the Trust Funds and to be paid and payable in equal half-yearly payments, the first of the said half-yearly payments to be made at the expiration of six calendar months after the decease of the person who shall have appointed such annuity or yearly income. Provided that the payment of the said annuity to the widow of the person appointing the same shall be subject to the obligation on her part of maintaining and educating each and every minor child (except the Baronet for the time being) of such person during their respective minorities. After the death or remarriage of the said widow the said annuity shall be paid to the Baronet for the time being to be held for him (or if the Baronet for the time being shall be a minor by the Corporation) upon trust to maintain and educate each and every such child during their respective minorities and shall continue to be so held in trust until the younger child shall attain majority. Provided further that notwithstanding any such appointment as aforesaid no widow of a Baronet shall become entitled to the sum so appointed if she shall also be entitled to the income of the one-eighth part of the Trust Funds on the failure of the male issue of the said Sir Sassoon Jacob David as provided

5. (1) The ¹[Central Government] may appoint any person to be Commandant and may appoint other persons to be District Constabulary Officers or Assistant Constabulary Officers of the Frontier Constabulary, or of any part thereof constituted in any one or more districts.

(2) The Commandant and every other officer so appointed shall possess and may exercise, such power and authority over the subordinate officer and members of the Constabulary at any time, under his command as is provided by or under this Act.

6. The appointment of all officers and men of the Frontier Constabulary other than those mentioned in sub-section (1) of section 5, shall rest with the Commandant and the District Constabulary Officer who shall respectively exercise such powers, in such manner as may be prescribed by rules made under this Act.

7. (1) The superintendence of, and control over, the Frontier Constabulary shall vest in the ¹[Central Government]; and the Frontier Constabulary shall be administered by the Commandant and the District Constabulary Officer in accordance with the provisions of this Act and of any rules made thereunder.

(2) The District Constabulary Officer and the Constabulary of a district shall be under the general control and direction of the Deputy Commissioner of the district.

(3) In exercising authority under sub-section (2) the Deputy Commissioner shall be governed by such rules and orders as the ¹[Central Government] may make in this behalf.

8. (1) Every member of the Constabulary who commits any of the following offences, that is to say :—

- (a) begins, excites, causes or conspires to cause or joins in any mutiny or being present at any mutiny, does not use his utmost endeavours to suppress it, or knowing, or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State does not, without delay give information thereof to his commanding or other superior officer ; or,
- (b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer whether on or off duty knowing or having reason to believe him to be such ; or,
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge, or which it is his duty to defend ; or,
- (d) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge ; or,

¹ Subs. by the A. O. for "L. G."

And whereas it is expedient to declare the law in force in the said territory ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Delhi Laws Act, 1915 ;

(2) It shall come into force on the first day of April, 1915.

2. All enactments (except the enactments specified in Schedule II) for the time being in force in the territory specified in Schedule A to the Delhi Laws Act, 1912, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments shall be deemed to be in force in the territory specified in Schedule I in the same manner and subject to the same modifications as they are for the time being in the territory specified in the said Schedule to the said Act.

3. The enactments specified in Schedule III, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under those enactments shall continue to be in force in the territory specified in Schedule I :

Provided that in the enactments so continued and in all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed thereunder, reference to a ¹[Provincial Government], the ²[Provincial Government] of the United Provinces of Agra and Oudh, or the Board of Revenue for the United Provinces shall be read as referring to the ³[Provincial Government] of Delhi ; references to a High Court or the High Court of Judicature of the North-Western Provinces as referring to the ⁴[High Court of Judicature at Lahore], and references to the official gazette for the United Provinces as referring to the ⁵[Official Gazette].

4. For the purpose of facilitating the application to the territory mentioned in Schedule I of the enactments referred to in section 3, the powers conferred by sections 4 and 5 of the Delhi Laws Act, 1912, shall be exercisable XIII in respect thereof.

5. Save as provided in sections 2 and 3 no enactment which is in force in the United Provinces of Agra and Oudh or any part thereof shall continue to be in force in the territory specified in Schedule I.

6. Nothing in this Act shall affect any proceeding which at the commencement thereof is pending in respect of any of the territory mentioned in Schedule I or of anything arising in such territory and every such proceeding shall be continued as if this Act had not been passed :

Provided that the ¹[Provincial Government] may, by notification in the ⁵[Official Gazette], direct that any proceeding, criminal, civil or revenue, other than a proceeding pending before the High Court of Judicature for the North-Western Provinces, shall be transferred to, and disposed of by, the corresponding authority of the Delhi Province.

¹ Subs. by the A. O. for " L. G. "

² Subs. by the A. O. for " Lieutenant Governor ".

³ Subs. by the A. O. for " Chief Commissioner ".

⁴ Subs. by the Repealing and Amending Act, 1919 (18 of 1919), s. 2 and Sch. I, for " Chief Court of the Punjab ".

⁵ Subs. by the A. O. for " Gazette of India ".

- (c) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge, or, without proper authority, releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape ; or,
- (d) being under arrest or in confinement, leaves his arrest or confinement, before he is set at liberty by proper authority ; or,
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office ; or,
- (f) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field ; or,
- (g) strikes or otherwise ill-uses any member of the Constabulary subordinate to him in rank or position ; or,
- (h) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made, as far as possible, to the injured person or to report the case to the proper authority ; or,
- (i) designedly or through neglect injures or loses or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or Frontier Constabulary necessaries, or any such articles entrusted to him or belonging to any other person ; or,
- (j) malingers or feigns or produces disease or infirmity in himself or intentionally delays his cure, or aggravates his disease or infirmity ; or,
- (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or,
- (l) does not, when called upon by his superior officer so to do or upon ceasing to be a member of the Constabulary, forthwith deliver up, or duly account for, all or any arms, ammunition, stores, accoutrements, appointments or other property issued or supplied to him or in his custody or possession, as such member of the Constabulary ; or,
- (m) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to [the Crown] or to any member of, or any person attached to, the Constabulary, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ; or,

37. Ghonda patti Chauhan Bangar
38. Jafrabad.
39. Uldanpur.
40. Babarpur.
41. Sigdarpur.
42. Gokalpur.
43. Sabauli.
44. Mandauli.
45. Taharpur.
46. Jhilmila.
47. Chandavli *ur* Shadara.
48. Silampur Bangar.
49. Silampur Khadar.
50. Ghondli Bangar.
51. Kakarduman.
52. Khureji Khas.
53. Khureji Baramad.
54. Shakarpur Khas Bangar.
55. Mandavli Fazilpur.
56. Hasanpur Bhuapur.
57. Ghazipur.
58. Khichripur.
59. Gharaunda Nimka Bangar (Patparganj).
60. Shakarpur Baramad.
61. Kotla.
62. Chilla Sarauda Bangar.
63. Dalupura.
64. Kendli.
65. Gharauli.

SCHEDULE II.

ENACTMENTS IN FORCE IN THE DELHI PROVINCE WHICH WILL NOT BE IN FORCE
IN THE TERRITORY ADDED TO THAT PROVINCE.

(See section 2.)

Year.	Number.	Short title.	Remarks.
1	2	3	4
1887	XVI	<i>Acts of the Governor General of India in Council.</i>	....
..	XVII	The Punjab Tenancy Act, 1887	....
**	*	The Punjab Land Revenue Act, 1887	....
		* * * *	

* The entry relating to the Punjab Alienation of Land Act, 1900 (Punjab 13 of 1900) was rep. by the Repealing and Amending Act, 1927 (10 of 1927), s. 3 and Sch. II.

(3) Any one of the punishments described in sub-section (1) or sub-section (2) may be awarded separately, or in combination with any one or more of the said punishments, respectively.

11. (1) Every person sentenced under this Act to imprisonment may be dismissed from the Frontier Constabulary, and shall be further liable to forfeiture of pay and allowances due, as well as of medals and decorations received and the public money due to him.

(2) Every such person shall, if he is so dismissed, be imprisoned in the nearest prison or such other prison as the ¹[Central Government] may, by general or special order, direct; but, if he is not also dismissed from the Frontier Constabulary, he may, if the Court or the Commandant so directs, be confined in the quarter-guard or such other place as the Court or the Commandant may consider suitable.

12. The following penal deductions may be made from the pay and allowances of a member of the Constabulary, that is to say,—

- (a) all pay and allowances for every day of absence either on desertion or without leave, and for every day of imprisonment awarded by a Criminal Court or of confinement awarded by an Officer exercising authority under section 10;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the proper Medical Officer attending on him at the hospital to have been caused by an offence under this Act committed by him;
- (d) all pay and allowances ordered to be forfeited under section 10 and
- (e) any sum required to make good such compensation for any expense caused by him, or for any loss of, or damage or destruction done by him to, any arms, ammunition, equipment, clothing, instruments, Frontier Constabulary necessities or decoration, or to any buildings or property, as may be awarded by the Commandant or the District Constabulary Officer.

13. Whenever any weapon or part of a weapon or ammunition forming part of the equipment of a company or other similar unit is lost or stolen, the Commandant may, after making such inquiry as he thinks fit, impose a collective fine upon the subordinate officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

14. No member of the Constabulary shall be at liberty to—

- (a) resign his appointment during the term of his engagement, except before the expiration of the first three months of his service or,
- (b) withdraw himself from all or any of the duties of his appointment

¹ Subs. by the A. O. for "L. G."

THE SIR JAMSETJEE JEJEEBHROY BARONETCY ACT, 1915.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.—Commencement.
2. Repeal of Act XX of 1860.
3. The Commissioner for the Northern Division, the Accountant-General, and the Collector of Bombay to be a Corporation for execution of the Trusts of this Act.
4. Present Baronet to continue to bear, and all future Baronets to take, names of First Baronet.
5. Government Promissory Notes of a certain nominal value vested in Trustees. On trust to re-invest if paid off ; and to pay income to present Baronet for his life ; and after death of present Baronet to pay income to Baronet for time being ; with ultimate trust for Second Baronet, his executors, administrators and assigns.
6. Powers of investment.
7. Prohibition against varying investments without consent of person entitled to income.
8. Power to Baronet for the time being to purchase land to erect a Mansion House thereon ; and to purchase land with a house thereon, and to pull the house down, and erect another, or to enlarge, alter or add to house thereon.
9. Power to trustees to sell securities to produce funds to pay for land, etc. Proviso that total sum raised shall not exceed Rs. 2,25,000.
10. Power to Baronet for the time being to sell Mazagon Castle.
11. Power to Trustees to apply proceeds of sale of Mazagon Castle, not exceeding Rs. 2,75,000 in paying for land purchased and for erecting Mansion House thereon, etc.
12. Settlement of Mansion House, etc., in support of Baronetcy.
13. Saving of rights of persons interested in reversion or remainder in Mazagon Castle on sale thereof.
14. Declaration of Trusts as to surplus proceeds of sale of Mazagon Castle over and above the sum of Rs. 2,75,000.
15. Power to Trustees to invest the surplus annual interest and income of the Trust Fund and premises during the minority of any Baronet, etc.
16. Provision in case of refusal or discontinuance of names of First Baronet.
17. Baronet in possession may jointure.
18. Limit of aggregate of jointure payable contemporaneously.
19. Mansion House and hereditaments not to be subject to jointure.
20. Alienation prohibited during the Baronetcy.

20. The ¹[Central Government] ² * * * may, by notification in the Official Gazette, apply, ³ with such modifications (if any) as it may think fit, any of the provisions of this Act and the rules thereunder to the Border Militia or to any persons for the time being enrolled for similar service on the external frontier of British India.

21. The ¹[Central Government] may, by notification in the Official Gazette, make rules—

- (a) regulating the functions and powers of the Deputy Commissioner, Commandant, the District Constabulary Officer and the Assistant Constabulary Officer, respectively, under this Act ;
- (b) regulating ⁴ * * * the classes and grades of, and the remuneration to be paid to the officers and men of, and the conditions of service in the Frontier Constabulary ;
- (c) fixing the period of service for members of the Constabulary in any district or local area ;
- (d) regulating the award of minor punishments to Constabulary Officers under the powers conferred by section 10, and providing for appeals from, or the revision of orders under, that section, or the remission of fines imposed under that section, and the remission of deductions made under section 12 ;
- (e) regulating the several or collective liability of members of the Constabulary in the case of the loss or theft of weapons and ammunitions ; and
- (f) generally, for the purpose of carrying into effect the provisions of this Act.

22. [Repeal.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE SCHEDULE.

CONDITIONS OF SERVICE.

[See section 2, clause (a).]

AFTER you have served for such periods as the ¹[Central Government] may have prescribed in this behalf in the Frontier Constabulary maintained under the North-West Frontier Constabulary Act, 1915, you may, at any time, when not on active service, apply for your discharge, through the officer to whom you may be subordinate, to the Commandant, or to the District Constabulary Officer of the district in which you may be serving and you will be granted your discharge after three months from the date of your

¹ Subs. by the A. O. for " L. G. "

² The words " subject to the control of the G. G. in C. " rep. by the A. O.

³ This Act has been applied with modifications to the Frontier Corps, viz., the Kurrum Militia, the Tochi Scouts and the South Waziristan Scouts,—see N.-W. F. P. Chief Commissioner's Notification No. 1085-M., dated the 27th March, 1925.

⁴ The words " subject to the provisions of s. 4 " rep. by the A. O.

Letters Patent, to hold to him and the heirs male of his body lawfully begotten, and to be begotten for ever :

AND WHEREAS in fulfilment of an engagement in that behalf made with Her said late Majesty's Government, during the lifetime of the said Sir Jamsetjee Jejeebhoy, deceased, the said Sir Jamsetjee Jejeebhoy was desirous of settling in perpetuity such property on himself and the heirs male of his body who might succeed to the said Baronetcy, as should be adequate to support the dignity of the title conferred on him and them as aforesaid :

AND WHEREAS the said Sir Jamsetjee Jejeebhoy was seized of a Mansion House and hereditaments situate in the Island of Bombay called Mazagon Castle, and had an absolute estate of inheritance therein, and was desirous, in fulfilment of the aforesaid engagement, of settling Promissory Notes of the Government of India, producing an annual income of one lakh of rupees and the said Mansion House and hereditaments, to the uses upon the trusts, and for the purposes in the said Act No. XX of 1860 limited and declared, concerning the same respectively :

AND WHEREAS the said Sir Jamsetjee Jejeebhoy was also desirous that the heirs male of his body to whom the said title and dignity of Baronet should descend, should take and bear the names of "Jamsetjee Jejeebhoy," in lieu of any other name or names whatever which they respectively might bear at the time of such descent on them respectively ; and he was also desirous that the Revenue Commissioner for the Northern Division of the Presidency of Bombay, the Accountant-General, and the Sub-Treasurer at Bombay, for the time being should be Trustees for the aforesaid Promissory Notes, and be likewise the Trustees for carrying into execution the general purposes and powers of the said Act No. XX of 1860, with relation to the same securities, and also with relation to the same Mansion House and hereditaments :

AND WHEREAS the said Sir Jamsetjee Jejeebhoy departed this life on the 14th day of April, 1859, before the aforesaid engagement with Her said late Majesty's Government was carried out on his part, and by his Will, dated the 9th day of April, 1853, duly signed and executed by him, gave and devised the residue of his estate, houses, lands, securities, moneys and effects, to and amongst his sons Cursetjee Jamsetjee, Rustomjee Jamsetjee, and Sorabjee Jamsetjee, and appointed his wife Avaboye and his said three sons, the executrix and executors of his said Will ; and the said Will was duly proved by the said Cursetjee Jamsetjee, Rustomjee Jamsetjee and Sorabjee Jamsetjee alone :

AND WHEREAS on the death of the said Sir Jamsetjee Jejeebhoy, the said title or dignity of Baronet, created by Her Majesty's said Letters Patent, devolved on and became and was at the date of the passing of the said Act No. XX of 1860 vested in the said Cursetjee Jamsetjee, as the eldest son and heir male of the body of the said Sir Jamsetjee Jejeebhoy, deceased :

AND WHEREAS the said Cursetjee Jamsetjee, the Second Baronet, Rustomjee Jamsetjee, and Sorabjee Jamsetjee, as the sons, residuary legatees and Executors of the said Sir Jamsetjee Jejeebhoy, First Baronet, deceased, and the

SECTIONS.

13. Audit of accounts.
14. Permanent reserve to cover recurring charges.
15. Maintenance and admission to privileges of colleges.
16. Recognition of degrees.
- 16-A. Pension or Provident Fund.
17. Statutes.
18. Regulations.
19. Emergency powers of the Central Government.

SCHEDULE I.

FIRST STATUTES OF THE UNIVERSITY.

1. Definitions.
2. Membership of the University.
3. Patrons and Vice-Patrons.
4. The Chancellor.
5. Powers of the Chancellor.
6. The Pro-Chancellor.
7. Powers of the Pro-Chancellor.
8. The Vice-Chancellor.
9. Powers of the Vice-Chancellor.
10. The Pro-Vice-Chancellor.
11. Powers of the Pro-Vice-Chancellor.
12. The Registrar.
13. The Treasurer.
14. The Court.
15. Exercise of control by the Court.
16. Meetings of the Court.
17. The Council.
18. Powers of the Council.
19. The Senate.
20. Powers of the Senate.
21. The Syndicate.
22. Duties of the Syndicate.
23. The Faculties.
24. Powers of Faculties.
25. Convocations.
26. Committees.
27. Board of Appointments.
28. Acts during vacancies.
29. Elected chairman to preside where no provision made by the Statute.
30. Re-appointment and re-election.
31. Resignation.
32. Removal.

instruction in Hindu theology and religion, and of promoting the study of literature, art, philosophy, history, medicine and science, and of imparting physical and moral training.

4. (1) The University shall, subject to the Regulations, be open to persons of all classes, castes and creeds, but provision shall be made for religious instruction and examination in Hindu religion only.

(2) The Court shall have power to make Statutes providing that instruction in Hindu religion shall be compulsory in the case of Hindu students, and shall also have power to make special arrangements for the religious instruction of Jain or Sikh students from funds provided for this purpose.

5. The Governor-General of India for the time being shall be the Lord Rector of the University ; and such persons, as may be specified in the Statutes shall be the Patrons and Vice-Patrons thereof.

¹[(2) In the discharge of his functions as Lord Rector, the Governor-General shall exercise his individual judgment.]

6. ²[(³) The Governor-General, exercising his individual judgment, shall nominate³ such person as he thinks fit to be the Visitor of the University.]

(2) The Visitor shall have the right of inspecting the University and its Colleges generally, and for the purpose of seeing that the proceedings of the University are in conformity with this Act and the Statutes and Regulations. The Visitor may, by order in writing, annul any such proceedings which are not in conformity with this Act and the Statutes and Regulations :

Provided that, before making any such order, he shall call upon the University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, shall consider the same.

7. The following shall be the authorities and officers of the University :—

- I.—The Chancellor,
- II.—⁴[The Pro-Chancellors, of whom there shall be two,]
- III.—The Vice-Chancellor,
- IV.—The Pro-Vice-Chancellor,
- V.—The Court,
- VI.—The Council,
- VII.—The Senate,
- VIII.—The Syndicate,
- ⁵[VIII-A.—The Standing Finance Committee,]
- IX.—The Faculties and their Deans,
- X.—The Registrar,
- XI.—The Treasurer, and
- XII.—Such other authorities and officers as may be provided for by the Statutes.

¹ Ins. by the A. O.

² Subs. by the A. O. for the original sub-section.

³ For notification nominating the Governor of the U. P. to be the Visitor of the University, see Gazette of India, 1937, Pt. I, p. 1446.

⁴ Subs. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 2, for "The Pro-Chancellor".

⁵ Ins. *ibid.*

assurance or assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of.

3. The Commissioner for the time being for the Northern Division of the Presidency of Bombay, the Accountant-General for the time being of Bombay, and the Collector for the time being of Bombay, and the holders for the time being of those offices respectively, and likewise the holder or holders for the time being of any one or more office or offices which may hereafter be substituted by the ¹[Provincial Government] of Bombay for any one or more of the first mentioned offices, shall be, and they are hereby, created a Corporation with perpetual succession and a common Seal under the style and title of "Sir Jamsetjee Jejeebhoy Baronet's Trustees," and the said Corporation so hereby created (hereinafter styled "the Corporation") are hereby constituted, as such Corporation, the Trustees for executing the powers and purposes of this Act.

4. The present Sir Jamsetjee Jejeebhoy, Fifth Baronet, shall continue to be called by the name of "Jamsetjee Jejeebhoy," and all other the heirs male of the body of Sir Jamsetjee Jejeebhoy, First Baronet, to whom the said title and dignity shall descend, pursuant to the limitation of the Letters Patent whereby the said dignity was granted, shall take upon themselves, respectively the name of "Jamsetjee Jejeebhoy," in lieu and in the place of any other name or names whatsoever; and the present Baronet, and all such other heirs male of the said Sir Jamsetjee Jejeebhoy, First Baronet, severally and successively shall be called by the name of "Jamsetjee Jejeebhoy," and by that name shall name, style, and write themselves, respectively, upon all occasions whatsoever.

5. Immediately from and after the passing of this Act, the said Promissory Notes of the ²[Central Government], of the nominal value of rupees twenty-two lakhs, fifty-four thousand and four hundred, shall vest in the Corporation who shall hold the same upon the trusts, and for the purposes, and with the powers, hereinafter expressed of and concerning the same, that is to say :

(a) Upon trust, if the same or any part thereof should be discharged by the ²[Central Government], to invest the sum or sums paid by the ²[Central Government] in discharge of the same or any part thereof, in or upon any stocks, funds, or securities in which they are by the provisions of this Act hereinafter authorised to invest the same, and in like manner, as often as the same shall become necessary, to alter, vary and change such stocks, funds, and securities for others of the same or a like nature ;

(b) and upon further trust, from time to time, to pay and apply the dividends, interest, and annual income of the said stocks, funds, and securities unto and for the benefit of the present Baronet,

¹ Subs. by the A. O. for "G. in C."

² Subs. by the A. O. for "G. of I."

(C) The accounts, when audited, shall be published in the ¹[Official Gazette] and a copy of the accounts, together with the auditor's reports, shall be submitted to the Visitor.

14. The University shall invest, and keep invested, in securities in which ^{Perm} trust funds may be invested, in accordance with the provisions of the law ^{reser} relating to trusts in British India, a sum of fifty lakhs of rupees as a permanent ^{cover} endowment to meet the recurring charges of the University other than charges ^{recur} in respect of scholarships, prizes and rewards :

Provided that—

(1) any Government securities, as defined by the ²Indian Securities Act, 1886, which may be held by the University shall, for the purpose of this section, be reckoned at their face-value : and

(2) the aforesaid sum of fifty lakhs shall be reduced by such sum as, at the commencement of this Act, the ³[Central Government] shall, by order in writing, declare to be the total capitalised value, for the purposes of this section—

(a) of all permanent recurring grants of money which have been made to the University by any Indian Prince or Chief : and

(b) of the total income accruing from immoveable property which has been transferred to the University.

15. (1) The Central Hindu College, Benares, shall, from such ^{date as} the ⁴[Central Government] may, by notification in the ⁵[Official Gazette], appoint in this behalf, be deemed to be a College maintained by the University, and the University may found and maintain other colleges and institutions ^{Maint} in Benares for the purposes of carrying out instruction and research. ^{and a} ^{sion t} ^{leges} ^{colleg}

(2) With the approval of the Senate and the sanction of the Visitor, and subject to the Statutes and Regulations the University may admit colleges and institutions in Benares to such privileges of the University, subject to such conditions, as it thinks fit.

16. The degrees, diplomas, certificates and other academic distinctions ^{Recoog} granted by the University, shall be recognized by ^{of deg} ⁶[any Government in British India] to the same extent and in the same manner as the corresponding degrees, diplomas, certificates and other academic distinctions granted by any other University incorporated by an ⁷[Act of the Central Legislature].

⁸[16A. The University shall constitute for the benefit of its officers, ^{Pensio} teachers and other servants such pension or provident fund as it may deem ^{Provic} fit in such manner and subject to such conditions as may be prescribed by ^{Fund.} the Statutes.]

¹ Subs. by the A. O. for "Gazette of India".

² See now the Indian Securities Act, 1920 (10 of 1920).

³ Subs. by the A. O. for "G. G. in C."

⁴ The 1st October, 1917, see Gen. R. and O., Vol. IV, p. 512.

⁵ Subs. by the A. O. for "the Govt."

⁶ Subs. by the A. O. for "Act of the G. G. in C."

⁷ Ins. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 4.

debentures issued by the Commissioners for the Port of Rangoon under the Local Authorities Loans Act, 1914, or the Rangoon Port Act, 1905 ;

- (e) on any other security expressly authorised by any rule which the High Court of Judicature at Bombay may, from time to time, prescribe as an investment for trust property consisting of money.

7. The Corporation shall not vary any investment of the funds, subject to the Settlement effected by this Act, without the consent in writing of the person for the time being entitled to the income of the said Funds.

8. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent, shall have power, with the written approval of the Corporation,—

- (a) to purchase land in any part of the Island of Bombay for the purpose of erecting thereon a Mansion House and all necessary or suitable accessory buildings, and to erect thereon such Mansion House and accessory buildings ;

- (b) to purchase land in any part of the Island of Bombay with a dwelling house standing thereon, and either to pull down the said dwelling house and any other building which may be upon the land, and to erect upon the said land, in lieu thereof, a Mansion House, with all necessary or suitable accessory buildings, or to enlarge, alter, or add to the building or buildings which may be upon the land, when purchased, so as to convert the same into a Mansion House, with all necessary or suitable accessory buildings.

9. The Corporation shall have power to sell a sufficient portion of the securities upon which the funds, which are subject to the Settlement effected by this Act, shall for the time being be invested to produce the sum which shall be required for the purpose of paying for any land which may be purchased by the person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent under the powers conferred by section 8, and for erecting thereon a Mansion House, with the necessary or suitable accessory buildings, or for paying for the purchase of any land with a house or other building standing thereon which may be purchased under the powers conferred as aforesaid, and for pulling down the said buildings, and erecting a Mansion House, with the necessary or suitable accessory buildings, in lieu thereof or for altering and adding to such buildings or the purpose of converting the same into a Mansion House, with the necessary or suitable accessory buildings, as the case may be :

(Schedule I.—First Statutes of the University.)

(ii) such Indian Princes and Chiefs as the Lord Rector may, of his own motion, or on the recommendation of the Court, from time to time, appoint.

(2) The Lord Rector may, on his own motion or on the recommendation of the Court appoint such persons, as he may think fit, to be Vice-Patrons of the University.

4. (1) The successors to the first Chancellor shall be elected by the Court. TH
CH

(2) The Chancellor shall hold office for three years.

5. (1) The Chancellor shall, by virtue of his office, be the head of the University. Po
th
Ch

(2) The Chancellor shall, if present, preside at the Convocation of the University for conferring degrees, and at all other meetings of the Court.

(3) The Chancellor may, on the recommendation of the Senate appoint Rectors, being persons of eminent position or attainment.

6. (1) The successors to the first Pro-Chancellor shall be elected by the Court from among its own members. TH
Ch

(2) The Pro-Chancellor shall hold office for one year.

(3) Casual vacancies in the office of the Pro-Chancellor shall be filled up by the Chancellor on the recommendation of the Council. The person so appointed shall hold office till the next annual election.

7. The Pro-Chancellor may, in the absence of the Chancellor or pending a vacancy in the office of Chancellor, exercise the functions of the Chancellor, except the conferring of degrees, and preside at any meetings of the Court. Po
th
Ch

8. (1) The successors to the first Vice-Chancellor shall be elected by the Court from among its own members. Such appointment shall be subject to approval by the Visitor. TH
Ch

(2) The Vice-Chancellor shall hold office for three years.

(3) Casual vacancies in the office of Vice-Chancellor shall be filled up by election by the Court, subject to approval by the Visitor. Until the election of a new Vice-Chancellor, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor.

9. (1) The Vice-Chancellor shall take rank in the University next to the Chancellor and the Pro-Chancellor, and shall be *ex-officio* Chairman of the Council, the Senate and the Syndicate. He shall be the principal Executive and Academic Officer of the University, and shall, in the absence of the Chancellor, preside at the convocation and confer degrees. Po
th
Ch

(2) It shall be the duty of the Vice-Chancellor to see that the Act, the Statutes and the Regulations are faithfully observed.

(3) The Vice-Chancellor shall have power to convene meetings of the Court, the Council, the Senate and the Syndicate, and to perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Regulations.

(4) If any emergency arises which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall

limiting or appointing the same, and to be issuing and payable out of the dividends, interest, and annual income, of the said stocks, funds, and securities, and to be paid and payable by equal half-yearly payments on the thirtieth day of June and the thirty-first day of December ; the first of the said half-yearly payment to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly sum, provided always, that in case any person on whom such title shall descend, shall have refused or neglected to use the names of " Jamsetjee Jejeebhoy," or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him, shall be and become inoperative and invalid ; and no such annuity thereby created or appointed shall take effect or be payable or chargeable on the said stocks, funds, and securities, notwithstanding any such limitation or appointment.

18. Provided always, that the said dividends, interest and annual income of the said stocks, funds, and securities shall not, at one and the same time, be subject to the payment of more than the yearly sum of rupees twenty thousand for, or in respect of, any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that, if by virtue of or under the same power, the said dividends, interest and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of rupees twenty thousand, the yearly sum which shall occasion such excess, or such part thereof as shall occasion the same, shall, during the time of such excess, abate and not be payable.

19. The said Mansion House and hereditaments called Mazagon Castle, with their rights, members, and appurtenances, and any lands, houses, buildings and tenements which may be purchased or erected under the powers conferred by section 8, with their rights, members, and appurtenances, shall not be subject to dower of any Dowager Lady Jejeebhoy, or of the present or any future wife of Sir Jamsetjee Jejeebhoy, Fifth Baronet, or of any wife of any of the persons who may successively be entitled to the Baronetcy under the aforesaid limitations, or to any other right, interest, or estate whatsoever which any Dowager Lady Jejeebhoy or any such wife or wives as aforesaid may or might have or claim to have in the said Mansion House, lands, buildings and hereditaments, under any custom or law of the Parsees, or otherwise howsoever.

20. So long as the said title and dignity of Baronet shall endure, and until there shall be a failure of the heirs male of the body of the First Baronet to whom the said title and dignity of Baronet might descend, pursuant to the limitations of the said Letters Patent, neither Sir Jamsetjee Jejeebhoy, Fifth Baronet, nor any of the heirs male of the body of Sir Jamsetjee Jejeebhoy, First Baronet, in whose favour trusts are hereinbefore declared of the dividends, and annual income of the said stocks, funds, and securities, or to whom the said Mansion House and hereditaments called Mazagon Castle and any lands, buildings, or other hereditaments, which may be purchased or erected

(Schedule I.—First Statutes of the University.)

14. (1) Subject to the provisions of the Act, and save as hereinafter provided in this Statute, the Court shall consist of the following persons, namely :—

Class I.—Ex-officio Members.

The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

Class II.—Donors and their representatives.

- (a) Every Indian Prince or Chief, contributing a donation of three lakhs of rupees or upwards, or transferring property of the like value, shall be a life-member from the date of the receipt of the donation or of the transfer, and after his decease, his successor for the time being holding his position as such Prince or Chief, shall be a life-member.
- (b) Every person contributing to the University a donation of one lakh of rupees or upwards, or transferring property of the like value, shall be a life-member from the date of the receipt of the donation or of the transfer.
- (c) Every person contributing to the University a donation of Rs. 10,000 or upwards, or transferring property of the like value, shall be a member for a period of ten years from the date of the receipt of his donation or of the transfer.
- (d) Every person who is a life-member in virtue of clause (a) may, from time to time, nominate one member. The member so nominated shall continue in office for such period as the nominator may specify to the Registrar, provided that his membership shall determine on the death of the nominator.
- (e) Every person who is a life-member in virtue of clause (b) may, by notice in writing to the Registrar, nominate one member to hold office for a period of five years.
- (f) Every donor who makes a bequest of Rs. 10,000 or upwards, or of property of the like value may, by or under his will, nominate one person who shall be a member for a period of five years from the receipt of the bequest.
- (g) Every Indian Prince or Chief who makes a permanent annual grant of money to the University shall, subject to the provisions of clause (j), have the same rights as to membership of, and representation on, the Court as if he had been a donor of such sum as represents the capital value ascertained at a rate of interest of $3\frac{1}{2}$ per cent. of such annual grant.
- (h) Every other grantor to the University of any annual grant of money, the payment of which is secured by mortgage of immoveable property affording sufficient security for such grant within the provisions of the *Explanation* to section 66 of the Transfer of Property Act, 1882, and effected by duly

loss or damage by fire, in such sum as the Corporation may deem adequate, and shall also, at his own expense, insure all houses and other buildings, which may be purchased or erected under the powers conferred by section 8, from the time when the same shall be conveyed to and become vested in the Corporation, against loss or damage by fire, in such sum as the Corporation may deem adequate, and in case any such person shall at any time neglect or refuse to insure the same in such amount or amounts, it shall be lawful for the Corporation to insure the same and to apply any portion of the income of the funds for the time being subject to the trusts of the Settlement effected by this Act to that purpose, and in case the hereditaments and premises so insured or any part thereof shall be destroyed or damaged by fire, the moneys received in respect of such insurance shall either be laid out under the directions of the Corporation in re-building or re-instating the hereditaments and premises so destroyed or damaged by fire, or, upon the application of the person for the time being entitled to, and in the enjoyment of, the said dignity of Baronet, and with the consent of the ¹[Provincial Government of Bombay] to be notified by a resolution of the Government of Bombay, may be laid out in the purchase of other hereditaments in the Island of Bombay suitable for the support of the dignity of the said Baronetcy and, in such last mentioned case, the hereditaments so purchased shall be conveyed to and vested in the Corporation, and the Corporation shall hold the same upon the same trusts and for the same ends, intents, and purposes, and with the same powers, as are declared and conferred by this Act of and concerning the hereditaments and premises which shall have been so destroyed or damaged by fire as aforesaid, or such of them as shall then be subsisting and capable of taking effect; and until such insurance moneys shall have been so laid out as aforesaid, the Corporation may invest the same or any part thereof in any of the securities specified in section 6.

23. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent shall, at his own expense, keep in good repair, order, and condition, the said Mansion House and other hereditaments called Mazagon Castle and all offices and out-buildings accessory thereto, and likewise all houses and other buildings which may be purchased or erected under the powers conferred by section 8, and all alterations and additions thereto, and all offices, out-houses and other buildings accessory thereto, and, in case any person shall at any time neglect or refuse to keep the same or any part thereof in such good order and condition, it shall be lawful for the Corporation to cause the same to be kept in good order and condition, and to defray the expenses incidental thereto, out of the income of the funds for the time being subject to the trusts of the Settlement effected by this Act.

24. The Corporation shall have power at any time, with the consent of the person entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent, and of the ¹[Provincial Government of Bombay] to be notified by a resolution of the Government of Bombay to sell or exchange

¹ Subs. by the A. O. for "Governor of Bombay in Council".

(Schedule I. First Statutes of the University.)

Provided that, as nearly as may be, one fifth of the total number of the members of the first Court in each of the groups of Class III shall retire by ballot at the end of each year for the first four years.

(5) All casual vacancies among the appointed or elected members shall be filled, as soon as conveniently may be, by the person or body who appointed or elected the member whose place has become vacant, and the person appointed or elected to a casual vacancy shall be a member for the residue of the term for which the person, in whose place he is appointed or elected, was a member.

15. The Court shall exercise control over the Senate through the Council ^{the} and not otherwise, and over the Faculties through the Council and Senate ^{the} and not otherwise, and over the Council by means of Statutes and Resolutions passed at a meeting of the Court and not otherwise.

16. (1) As soon as may be after the commencement of the Act, the first ^{Meeting} Court shall assemble at such place and time, as the Chancellor may direct, ^{of the} in order to make the necessary appointments and elections for the purpose of the Act and Statutes.

(2) An annual meeting of the Court shall be held during the month of October in each year, unless some other month be fixed by Resolution at a previous annual general meeting, on such day and at such hour as shall be appointed by the Council. And at such yearly meeting, a report of the proceedings of the Council and of the University, together with a statement of the receipts and expenditure and the balance sheet as audited, shall be presented by the Council to such meeting, and any vacancies among the officers of the University or among the members of the Court or Council which ought to be filled up by the Court shall be filled up.

(3) A copy of the statement of receipts and expenditure and of the balance-sheet referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting, and shall be open to the inspection of all members of the Court and Senate at the office of the University during the year following such annual meeting, at such reasonable hours and under such conditions as the Council may determine.

(4) Twenty members of the Court shall form a quorum.

(5) Special general meetings of the Court may be convened by the Council at any time.

17. (1) The Council shall consist of the following persons, namely: The

(i) The Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

(ii) Not more than thirty elected members, of whom five shall be members of the Senate elected by the Senate, and the remainder members of the Court elected by the Court.

(2) Not less than five of the members to be elected by the Court shall be residents of places outside the United Provinces of Agra and Oudh.

(3) At the first election of members of the Council by the Court, it shall

notwithstanding anything in this Act contained to the contrary, to enter into an arrangement with the Government of Bombay whereby, in consideration of the waiver in perpetuity by the Government of Bombay of their right to enhance the amount of the assessment to land-revenue for the time being payable in respect of the land occupied by the said Mansion House and other hereditaments, called Mazagon Castle, either the amount of the assessment to land-revenue payable in respect of any land which may be purchased in pursuance of the power in that behalf conferred by section 8, may be enhanced, or an assessment to land-revenue of any land so purchased, which at the time of the purchase thereof shall not be liable to the payment of land-revenue, may be imposed thereon.

29. The Trustees for the time being acting in the execution of the trusts and powers hereby created and reposed in them respectively, and their successors, respectively, shall be charged and chargeable for such moneys only as he and they respectively shall actually receive by virtue of the trusts, powers and provisions of this Act, notwithstanding his, their, or any of their giving or signing, or joining in giving or signing any receipt or receipts, for the sake of conformity; and he and they respectively shall not be answerable or accountable for any banker or broker, agent, or other person with whom or in whose hands any part of the said trust moneys shall or may be deposited or lodged for safe custody, or otherwise in the execution of any of the trusts, powers, and provisions hereinbefore created or contained; and the Trustees for the time being acting in the execution of the trusts and powers hereby created, and reposed in them respectively, and their successors respectively, shall not be answerable or accountable for the insufficiency or deficiency of any security or securities, stocks, or funds, in or upon which the said trust moneys or any part thereof shall be placed out or invested, nor for any other misfortune, loss or damage which may happen in the execution of the aforesaid trusts, powers and provisions or in relation thereto; and it shall be lawful for him and them respectively with or out of the money which shall come to his or their respective hands by virtue of the trusts and provisions of this Act, to retain and reimburse to himself and themselves respectively all costs, damages and expenses which he and they respectively shall or may sustain, expend, or disburse in or about the execution of the aforesaid powers, trusts, and provisions or in relation thereto.

30. Saving always to the King's Most Excellent Majesty, His heirs and successors, and to all and every other person and persons, bodies politic and corporate, and his, her and their respective heirs, successors, executors, and administrators and every of them (other than and except the devisees, heirs and assigns of the said Sir Jamsetjee Jejeebhoy, First Baronet), all such estate, right, title, interest, claim, and demand whatsoever of, in, to, out of, or upon the said Mansion House and hereditaments, called Mazagon Castle, and any lands, buildings or other hereditaments, which may be purchased or erected, under the powers conferred by section 8 or any part or parts thereof, as they, every, or any of them had before the passing of this Act and would, could, or might have had, held, or enjoyed in case this Act had not been passed.

(Schedule I.—First Statutes of the University.)

- (vi) To provide the buildings, premises, furniture, and apparatus, and other means needed for carrying on the work of the University.
- (vii) To enter into, vary, carry out, and cancel contracts on behalf of the University.
- (viii) To entertain, adjudicate upon, and, if thought fit, redress any grievances of the officers of the University, the Professors, the Teaching Staff, the graduates, under-graduates and the University servants, who may, for any reason, feel aggrieved, otherwise than by an act of the Court :

Provided that nothing in this provision shall be deemed to confer on the Council any power to interfere in any matter of discipline in regard to graduates and under-graduates.

- (ix) To maintain a register of donors to the University.
- (x) To select a Seal for the University, and provide for the custody and use of the Seal.

19. (1) The Senate shall, save as hereinafter provided in this Statute, The Senate ordinarily consist of not less than fifty members, of whom not less than three-fourths shall be Hindus, and shall include the following persons namely :—

Class I.—Ex-officio Members.

- (a) The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.
- (b) The University Professors.
- (c) The Principals or heads of Colleges.

Class II.—Elected Members.

- (a) Five members to be elected by the Court.
- (b) Five members to be elected by the registered graduates of the University from such date as the Court may fix.
- (c) Five representatives of Hindu religion and Sanskrit learning to be elected by the Senate.
- (d) Ten representatives to be elected by the Senate from persons engaged in the teaching work of the University or its Colleges.
- (e) Should the Vice-Chancellor declare that there is a deficiency in the number of members required in any Faculty or Faculties, then five or less persons elected by the Senate, eminent in the subject or subjects of that Faculty or those Faculties.

(2) It extends to the whole of the North-West Frontier Province, and applies also to every member of the Constabulary, wherever he may be serving; and

(3) It shall come into force on such day¹ as the ²[Central Government] may, by notification in the Official Gazette, appoint in this behalf.

ions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “member of the Constabulary” means a person other than a person appointed by the ²[Central Government] who, at the commencement of this Act, is serving in the Frontier Constabulary, or who, after the commencement of this Act, has been appointed to the Frontier Constabulary under this Act, and has signed a recruiting-roll on which the conditions of service contained in the Schedule are set forth :

Provided that every person who has for the space of six months been in the receipt of pay as a member of the Frontier Constabulary, and been borne on the rolls of the Frontier Constabulary shall be deemed to be a member of the Constabulary, notwithstanding that he has not signed the said recruiting-roll :

(b) “Commandant” means a person appointed by the ²[Central Government] to be a Commandant of the Frontier Constabulary :

(c) “active service” means service against hostile tribes, raiders or other hostile persons, or persons co-operating with or assisting such tribes, raiders or hostile persons :

(d) the expressions “assault,” “criminal force,” “fraudulently,” “reason to believe” and “voluntarily causing hurt” have the meanings assigned to them, respectively, in the Indian Penal Code.

³[In this section references to appointments by the Central Government shall be construed as including references to appointments made before the commencement of Part III of the Government of India Act, 1935, by the Provincial Government.]

to
in
er
bulary. 3. ⁵[There shall continue to be a force, maintained by the Central Government, and called] the Frontier Constabulary, for the better protection and administration of the external frontier of British India within the limits of adjoining the North-West Frontier Province or any part thereof.

tution
stabu- 4. The Frontier Constabulary shall be constituted in such manner, and the members of the Constabulary shall receive such pay, pension, and other remuneration as shall from time to time ⁶ * * * be ordered by the ²[Central Government].

¹ The 15th October, 1915 ; see N.-W. F. P. Gazette, dated 29th November, 1915.

² Subs. by the A. O. for “L. G.”

³ Ins. by the A. O.

⁴ I. e. the 1st April, 1937.

⁵ Subs. by the A. O. for “The L. G. may continue to maintain a force, to be called”.

⁶ The words “with the previous sanction of the G. G. in C.” rep. by the A. O.

(Schedule I.—First Statutes of the University.)

21. (1) The Syndicate shall be the executive body of the Senate, and shall consist of the Vice-Chancellor, the Pro-Vice-Chancellor and fifteen persons elected by the Senate, of whom not less than ten shall be University Professors or Principals or Professors of Colleges.

(2) The elected members of the Syndicate shall hold office for three years : Provided that, as nearly as may be, one-third of the elected members of the first Syndicate shall retire by ballot at the end of each year for the first two years.

(3) All casual vacancies among elected members may be filled up by the Senate.

(4) Five members of the Syndicate shall be a quorum.

22. It shall be the duty of the Syndicate, subject to the revision and control of the Senate,—

- (i) to order examinations in conformity with the Regulations, and to fix dates for holding them ;
- (ii) to appoint Examiners, and, if necessary, to remove them, and, subject to the approval of the Council, to fix their fees, emoluments and travelling and other allowances, and to appoint Boards of Examiners and Moderators ;
- (iii) to appoint, whenever necessary, Inspectors or Boards of Inspectors for inspecting Colleges applying for admission to the privileges of the University ;
- (iv) to declare the results of the various University Examinations, and to recommend for degrees, honours, diplomas, licences, titles and marks of honour ;
- (v) to award stipends, scholarships, medals, prizes and other rewards, in conformity with the Regulations and the conditions prescribed for their award ;
- (vi) to consider and make such reports, or recommend such action, as may be deemed necessary, on proposals or motions brought forward by the members of the Senate and Faculties, for consideration by the Senate ;
- (vii) to publish lists of prescribed, or recommended, text books and to publish statements of the prescribed courses of study ;
- (viii) to prepare such forms and registers as are, from time to time, prescribed by the Regulations ; and generally,
- (ix) to perform all such duties and to do all such acts, as may be necessary, for the proper carrying out of the provisions of the Act, and the Statutes and Regulations or the Resolutions of the Senate.

23. (1) The University shall include the Faculties of—(1) Oriental learning, (2) Theology, (3) Arts, (4) Science, Pure and Applied, (5) Law, and, as soon as the Visitor is satisfied that sufficient funds are available for the purpose,

who, while on active service,—

- (e) disobeys the lawful command of his superior officer ; or,
- (f) deserts the service ; or,
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or,
- (h) without authority, leaves his commanding officer, or his post or party, to go in search of plunder ; or,
- (i) quits his guard, picquet, party, or patrol without being regularly relieved or without leave ; or,
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or, without authority, breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind ; or,
- (k) intentionally causes or spreads a false alarm in action or in camp, garrison, or quarters ; or,
- (l) displays cowardice in the execution of his duty ;

shall be punishable with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

(2) If any member of the Constabulary while on active service with a force beyond the limits of British India, is charged with committing any offence described in clause (e), clause (d), or clause (f), of sub-section (1), or the offence of culpable homicide amounting to murder, he may be summarily tried for such offence by the Political Officer accompanying the force, sitting with two other officers appointed by the Political Officer for this purpose.

(3) Every officer appointed under sub-section (2) shall be either—

- (a) a British officer, that is to say, a person holding a commission in His Majesty's land forces, or,
- (b) a civil officer, of gazetted rank, or,
- (c) a person appointed under section 5 :

Provided that, if circumstances permit, not less than one such officer shall be a Constabulary Officer appointed under section 5.

(4) If one or both of the officers sitting with the Political Officer concur with him in finding the accused guilty, and the Political Officer so directs, the accused shall be forthwith shot to death.

9. Every member of the Constabulary who commits any of the following offences, that is to say,—

- (a) is in state of intoxication when on, or after having been warned for, any duty, or on parade or on the line of march ; or,
- (b) strikes or attempts to force any sentry ; or,

(Schedule I.—First Statutes of the University.)

1916 : Act VII.]

Medical Degrees.

of qualification by, or invalidity in, the election or appointment of any *de facto* member of the body, whether present or absent.

29. Where, by the Statutes or Regulations, no provision is made for a President or chairman to preside over a meeting of any University authority, Board or Committee, or when the president or chairman so provided for is absent, the members present shall elect one of their number to preside at the meeting.

30. Every officer of the University and every member of any University authority, whose term of office or of membership has expired, shall be eligible for re-appointment or re-election, as the case may be.

31. Any member of the Court, the Council, the Senate or the Syndicate or any other University authority may resign by letter addressed to the Secretary in the case of the Court, and to the Registrar in all other cases.

32. A member of the Court or the Senate may be removed from office on conviction by a Court of law of what, in the opinion of the Court or the Senate, as the case may be, is a serious offence involving moral delinquency :

Provided that a Resolution for the removal of any such member is approved by not less than two-thirds of the members present at the meeting of the Court or the Senate, as the case may be, at which such a Resolution is proposed :

And provided further that such a Resolution is confirmed by a like majority at a subsequent meeting of the Court or Senate, as the case may be.

THE INDIAN MEDICAL DEGREES ACT, 1916.

ACT No. VII OF 1916.¹

[16th March, 1916.]

An Act to regulate the grant of titles implying qualifications in Western medical science, and the assumption and use by unqualified persons of such titles.

WHEREAS it is expedient to regulate the grant of titles implying qualifications in Western medical science, and the assumption and use by unqualified persons of such titles ; It is hereby enacted as follows :—

1. This Act may be called the Indian Medical Degrees Act, 1916.

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 76 ; for Report of Select Committee, see *ibid.*, 1916, Pt. V, p. 7 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, p. 460, and *ibid.*, 1916, Pt. VI, pp. 5 and 206.

- (n) absents himself without leave, or without sufficient cause over-stays leave granted to him ; or,
- (o) is guilty of any act or omission which, though not specified in the Act, is prejudicial to good order and discipline ; or,

who, while not on active service,—

- (p) disobeys the lawful command of his superior officer ; or
- (q) deserts the service ; or,
- (r) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or,
- (s) quits his guard, picket, party, or patrol without being regularly relieved or without leave ; or,
- (t) plunders, destroys or damages any property of any kind ; or,
- (u) displays cowardice in the execution of his duty ;

shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

10. (1) The Commandant or the District Constabulary Officer may, subject to any rules made under this Act, award in lieu of, or in addition to, suspension or dismissal, any of the following punishments to any member of the Constabulary who is, in the opinion of the Commandant or the District Constabulary Officer, as the case may be, guilty of disobedience, neglect of duty, or remissness in the discharge of any duty, or of rendering himself unfit to discharge his duty, or of other misconduct in his capacity as such member of the Constabulary, that is to say,—

- (a) reduction in rank and emoluments ;
- (b) fine to any amount not exceeding one month's pay and allowances ;
- (c) confinement to quarters for a term not exceeding one month ;
- (d) confinement in the quarter-guard for not more than twenty-eight days with or without punishment-drill or extra guard, fatigue or other duty ; and
- (e) removal from any office of distinction or special emolument in the Constabulary.

(2) The Commandant or the District Constabulary Officer, or an officer not being below the rank of Subedar, commanding a separate detachment or an outpost, or in temporary command at the head-quarters of a district during the absence of the Commandant and the District Constabulary Officer may, without a formal trial, award to any member of the Constabulary who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say,—

- (a) confinement for not more than seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance ; and,
- (b) punishment-drill, or extra guard, fatigue or other duty, for not more than thirty days, with or without confinement to quarters.

SCHEDULE.

(See section 3.)

1. Every University established by an ¹[Act of the Central Legislature.]
2. The State Medical Faculty in Bengal.
3. The College of Physicians and Surgeons of Bombay.
4. The Board of Examiners, Medical College, Madras.

THE HINDU DISPOSITION OF PROPERTY ACT, 1916.

ACT No. XV OF 1916.²

[28th September, 1916.]

An Act to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition.

WHEREAS it is expedient to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition ; It is hereby enacted as follows :—

1. (1) This Act may be called the Hindu Disposition of Property Act. Sho

(2) It extends, in the first instance, to the whole of British India, except and the province of Madras : Provided that the ³[Provincial Government] may, by notification in the ⁴[Official Gazette], extend this Act to the province of Madras.

2. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not in existence at the date of such disposition. Disposition for benefit of persons not existing

3. The limitations and provisions referred to in section 2 shall be the following, namely :— Lim and conc

(a) in respect of dispositions by transfer *inter vivos*, those contained in ⁵[Chapter II] of the Transfer of Property Act, 1882, and

¹ Subs. by the A. O. for " Act of the G. G. in C."

² For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 2 ; for Report of Select Committee, see *ibid.*, 1916, Pt. V, p. 76 ; and for Proceedings in Council, see *ibid.*, 1916, Pt. VI, pp. 19, 509, 542 and 585.

³ Subs. by the A. O. for " G. G. in C."

⁴ Subs. by the A. O. for " Gazette of India."

⁵ Subs. by the Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929), s. 12, for " sections 13, 14 and 20 ".

without the permission in writing (to be previously obtained) of the Commandant or the District Constabulary Officer or other officer authorised by the Commandant to grant such permission.

15. (1) It shall be the duty of every member of the Constabulary promptly to obey and to execute all orders and warrants lawfully issued to him by any competent authority, to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient grounds exist.

(2) Every member of the Constabulary shall be liable to serve without and beyond, as well as within, the limits of British India.

16. The ¹[Central Government] may, by general or special order, confer or impose upon any member of the Constabulary any of the powers or duties conferred or imposed on a Police-officer of any class or grade by any enactment for the time being in force.

17. (1) In any suit or proceeding against any member of the Constabulary for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Such plea may be proved by the production of the warrant or order directing the act, and, if it is so proved, such member of the Constabulary shall thereupon be discharged from liability in respect of the act so done by him notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) All suits and proceedings (whether civil or criminal) against any person which may lawfully be brought for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder, shall be commenced within three months after the act complained of was committed and not otherwise; and notice in writing of such suit or proceeding and of the cause thereof shall be given to the defendant or his superior officer one month at least before the commencement of the suit or proceeding.

18. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the ¹[Central Government] may declare that the Court of any Deputy Commissioner and no other Court, shall be deemed to be the Court of Session for the disposal of cases, or any class of cases, arising under this Act.

19. Any person invested with any powers under the Code of Criminal Procedure, 1898, for the disposal of any case under this Act within the limits ^{V of 18} of British India shall, in relation to any case arising under this Act beyond such limits, have the same power and be subject to the same conditions as to appeal or otherwise as if such case had arisen within such limits.

¹ Subs. by the A. O. for "L. G."

	PAGE.
Administrator General's Act, 1913	182
Animals Protection—see Wild Birds and Animals Protection Act, 1912	165
Army—see Indian Army Act, 1911	39
Benares Hindu University Act, 1915	534
Bengal, Bihar and Orissa and Assam Laws Act, 1912	159
Calcutta Improvement (Appeals) Act, 1911	92
Companies—see Indian Companies Act, 1913	220
Constabulary—see North-West Frontier Constabulary Act, 1915	525
Co-operative Societies Act, 1912	102
Copyright—see Indian Copyright Act, 1914	458
Cowasjee Jehangir Baronetcy Act, 1911	93
Delhi Laws Act, 1912	167
Delhi Laws Act, 1915	503
Designs—see Indian Patents and Designs Act, 1911	1
Destructive Insects and Pests Act, 1914	457
Hindu Disposition of Property Act, 1916	555
Indian Army Act, 1911	39
Indian Companies Act, 1913	220
Indian Copyright Act, 1914	458
Indian Lunacy Act, 1912	118
Indian Medical Degrees Act, 1916	553
Indian Motor Vehicles Act, 1914	487
Indian Patents and Designs Act, 1911	1
Insects—see Destructive Insects and Pests Act, 1914	457
Local Authorities Loans Act, 1914	498
Lunacy—see Indian Lunacy Act, 1912	118
Matches—see White Phosphorus Matches Prohibition Act, 1913	110
Medical Degrees—see Indian Medical Degrees Act, 1916	553
Motor Vehicles—see Indian Motor Vehicles Act, 1914	487
Mussalman Wakf Validating Act, 1913	525
North-West Frontier Constabulary Act, 1915	525
Official Trustees Act, 1913	1
Opium (Amendment) Act, 1911	1
Patents—see Indian Patents and Designs Act, 1911	1
Pests—see Destructive Insects and Pests Act, 1914	457
Prevention of Seditious Meetings Act, 1911	1
Sir Currimbhoy Ebrahim Baronetcy Act, 1913	1
Sir Jamsetjee Jejeebhoy Baronetcy Act, 1915	1
Sir Sassoon Jacob David Baronetcy Act, 1915	1
Societies—see Co-operative Societies Act, 1912	102
Trustees—see Official Trustees Act, 1913	1
University—see Benares Hindu University	534
Wakf—see Mussalman Wakf Validating	525
White Phosphorus Matches Prohibition	110
Wild Birds and Animals Protection	165

application, unless your discharge would cause the vacancies in the Frontier Constabulary to exceed one-tenth of the sanctioned strength, in which case you shall be bound to remain until this objection is waived by competent authority or removed. But when on active service you shall have no claim to a discharge, and you shall be bound to remain to do your duty until the necessity for retaining you in the Frontier Constabulary ceases, when you may make your application in the manner hereinbefore prescribed :

Provided that, if you wish to withdraw from the Frontier Constabulary, you may resign at any time before the expiration of the first three months of your service, but not afterwards until the completion of the period prescribed as aforesaid :

Provided, also, that the Commandant or the District Constabulary Officer may, if he thinks fit, allow you to resign at any time on your giving three months' notice of your wish to do so.

*Signature of the member of the Constabulary in }
acknowledgment of the above having been } A. B.
read to him. }*

Signed in my presence after I had ascertained }
that A. B. understood the purport of } C. D.
what he signed. }

Commandant or, District
Constabulary Officer.

THE BENARES HINDU UNIVERSITY ACT, 1915.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Definition.
3. Incorporation.
4. University open to all classes, castes and creeds save as regards religious instruction.
5. Lord Rector, Patrons and Vice-Patrons.
6. Visitor.
7. Authorities and officers of the University.
8. Powers and duties of officers, terms of office and filling of casual vacancies.
9. The Court.
10. The Council.
11. The Senate.
12. The Syndicate.

8. Subject to the provisions of this Act, the powers and duties of the officers of the University, the term for which they shall hold office, and the filling up of casual vacancies in such offices, shall be provided for by the Statutes.

9. (1) The Court shall be the supreme governing body of the University in administrative matters, and shall have power to review the acts of the Senate (save when the Senate has acted in accordance with powers conferred on it under this Act, the Statutes or the Regulations), and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes.

¹[(2) No person not being a Hindu shall become or be appointed a member of any Court other than the first Court unless he has been a member of the first Court.]

10. (1) The Council shall be the executive body of the Court, and shall, in addition to *ex-officio* members, consist of not more than thirty elected members :

Provided that five members, other than *ex-officio* members, shall be members of the Senate elected by the Senate.

(2) The Council shall exercise such powers and perform such duties as may be vested in it by the Statutes.

11. (1) The Senate shall be the academic body of the University and, subject to the Act, the Statutes and Regulations, shall have entire charge of the organization of instruction in the University and the Colleges, the courses of study and the examination and discipline of students and the conferment of ordinary and honorary degrees.

(2) The Senate shall ordinarily consist of not less than fifty members.

12. (1) The Syndicate shall be the executive body of the Senate, and shall consist of ²[twenty] members :

Provided that ten at least of the members of the Syndicate, other than *ex-officio* members, shall be University Professors or Principals or Professors of Colleges.

(2) The Syndicate shall exercise such powers and perform such duties as may be vested in it by the Statutes.

13. (1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by auditors appointed by the Court :

Provided that no person shall be appointed an auditor in the exercise of this power, unless he is qualified in accordance with the provisions of the Indian Companies Act, 1913, to audit accounts of companies under that Act. VII

¹ Subs. by the Benares Hindu University (Amendment) Act, 1922 (3 of 1922), s. 2, for the original sub-section.

² Subs. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 3, for "seventeen".

17. (1) Subject to the provisions of this Act, the Statutes may provide for any or all of the following matters, namely :—

(a) the constitution, powers and duties of the Court, the Council, the Senate, the Syndicate, ¹[the Standing Finance Committee] and such other bodies, as it may be deemed necessary to constitute from time to time ;

(b) the election and continuance in office of the members of the said bodies, including the continuance in office of the first members, and the filling of vacancies of members and all other matters relative to those bodies for which it may be necessary or desirable to provide ;

(c) the appointment, powers and duties of the necessary officers of the University ;

¹[(cc) the constitution of a pension or provident fund for the benefit of the officers, teachers and other servants of the University] ;

(d) for the instruction ¹[and examination] of Hindu students in Hindu religion ; and

(e) all other matters relating to the administration of the University.

(2) The first Statutes shall be those set out in Schedule I.

(3) The Court may, from time to time, make new or additional Statutes or may amend or repeal the Statutes.

(4) The Council shall have power to draft and propose to the Court Statutes to be made by the Court, and it shall be the duty of the Court to consider the same.

(5) All new Statutes or additions to the Statutes or amendments or repeals to Statutes other than Statutes providing for the instruction of Hindu students in Hindu religion, shall require the previous approval of the Visitor, who may sanction, disallow or remit ²[them] for further consideration :

Provided that no Statute making a change in the constitution of the Court, the Council, the Senate or the Syndicate, as provided for in the first Statutes, ¹[and no Statute containing, repealing or amending any provision which relates to the constitution, powers or duties of the Standing Finance Committee], shall be made without the previous sanction of the ³[Central Government].

18. (1) Subject to the provisions of this Act and the Statutes, the regulations may provide for any or all of the following matters, namely :—

(a) the payment of fees to the University and their amount ;

(b) the admission of students to the University and their examination ;

(c) the tenure of office and terms and manner of appointment and the duties of the examiners and examining boards ;

¹ Ins. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 5.

² Ins. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I.

³ Subs. by the A. O. for " G. G. in C. "

(Schedule I.—First Statutes of the University.)

may issue such instructions, as appear to [it] to be necessary and desirable in the circumstances of the case, and the Court shall give effect to such instructions.

20. (1) From the commencement of this Act, the Hindu University Society shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the Hindu University Society which, immediately before the commencement of this Act, belonged to, or were vested in, the said Society, shall vest in the University, and shall be applied to the objects and purposes for which the University is incorporated.

(2) From the commencement of this Act, all debts and liabilities of the said Society shall be transferred and attached to the University, and shall thereafter be discharged and satisfied by the University.

(3) Any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the Central Hindu College or the said Society shall, on the commencement of this Act, be construed as if the University were therein named, instead of the said College or Society.

SCHEDULE I.

FIRST STATUTES OF THE UNIVERSITY.

[See sections 3 and 17 (2).]

1. (1) In these Statutes—

“The Act” means the Benares Hindu University Act, 1915.

(2) All words and expressions used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.

2. (1) The following persons shall be members of the University, namely:—

- (i) The officers of the University.
- (ii) The members of the University authorities.
- (iii) The members of the teaching staff.
- (iv) The graduates.
- (v) The under-graduates.

(2) Membership of the University shall continue so long only as one at least of the qualifications above enumerated shall continue to be possessed by the individual member.

3. (1) The following persons shall be the Patrons of the University, namely:—

2[(i) all Governors and Chief Commissioners in British India:]

¹ Subs. by the A. O. for “him.”

² Subs. by the A. O. for the original paragraph.

(Schedule I.—First Statutes of the University.)

take such action as he deems necessary, and shall report the fact to the authority which in the ordinary course would have dealt with the matter.

10. (1) The Pro-Vice-Chancellor shall be elected by the Court. The appointment shall be subject to approval by the Visitor.

(2) He shall hold office for such period and under such conditions as shall, from time to time, be determined by the Court.

(3) Casual vacancies in the office of the Pro-Vice-Chancellor shall be filled up by the Vice-Chancellor with the approval of the Chancellor and the Visitor. The person so appointed shall hold office till the next meeting of the Court.

11. The Pro-Vice-Chancellor shall be *ex-officio* Secretary of the Court and the Council. He shall be the executive assistant of the Vice-Chancellor in all matters affecting the discipline of the graduates and under-graduates.

12. (1) The Registrar shall be a whole-time paid officer of the University, and shall be appointed by the Council. He shall be *ex-officio* Secretary of the Senate and the Syndicate. He shall hold office for a term of five years.

(2) The Registrar may be a member of the Senate, but shall not be a member of the Syndicate.

(3) It shall be the duty of the Registrar,—

(a) to be the custodian of the records, common seal and such other property of the University as the Syndicate shall commit to his charge ;

(b) to act as Secretary to the Senate and the Syndicate, and to attend, as far as possible, all meetings of the Senate, Syndicate, Faculties, and any Committees appointed by the Senate, the Syndicate, or the Faculties, and to keep minutes thereof ;

(c) to conduct the official correspondence of the Senate and the Syndicate ;

(d) to issue all notices convening meetings of the Senate, Syndicate, Faculties, Boards of Studies, Boards of Examiners, and of any Committees appointed by the Senate, the Syndicate, the Faculties or any of the Boards ;

(e) to arrange for, and superintend, the examinations of the University at Benares ; and

(f) to perform such other work as may, from time to time, be prescribed by the Syndicate.

13. (1) The Treasurer shall be appointed by the Court. He shall hold office for the term of one year.

(2) Casual vacancies in the office of Treasurer shall be filled up by election by the Council. The person so appointed shall hold office for the unexpired period of office of the person in whose place he is elected.

(3) The receipt of the Treasurer for any money payable to the University shall be sufficient discharge for the same.

(Schedule I.—First Statutes of the University.)

proceed in the first place to elect twenty members. The Court shall, as soon as the result of the election is declared, proceed to determine the province, or provinces or States, from among the residents of which the remaining five members are to be elected, and assign to each province or State the number of member or members to be elected.

(4) At each subsequent election, as nearly as may be, four-fifths of the vacancies shall be first filled up. The remaining one-fifth of the vacancies shall then be filled up to secure representation of provinces and States, on the same lines *mutatis mutandis* as provided in sub-section (3).

(5) The elected members of the Council shall hold office for the term of three years :

Provided that, at the first annual meeting of the Court, and at the second annual meeting of the Court, as nearly as may be, one-third of the first elected members shall retire by ballot.

(6) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(7) Seven members of the Council shall form a quorum.

18. (1) The Council shall, subject to the control of the Court, have the management and administration of the whole revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the Act, the Statutes and any Regulations made in pursuance thereof, the Council shall, in addition to all other powers vested in it, have the following powers, namely :—

- (i) To appoint, from time to time, Principals of Colleges and such University Professors, Professors, Assistant Professors, Readers, Lecturers and other members of the teaching staff, as may be necessary, on the recommendation of the Board of Appointments.
- (ii) In the case of other appointments, to delegate, subject to the general control of the Council, the power of appointment to such authority or authorities as the Council may, from time to time, by Resolution, either generally or specially direct.
- (iii) To manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and, for that purpose, to appoint such agents as it may think fit.
- (iv) To invest any moneys belonging to the University, including any unapplied income in such stocks, funds, shares, or securities, as it shall, from time to time, think fit, or in the purchase of immoveable property in India, with the like power of varying such investments from time to time.
- (v) To transfer or accept transfers of any moveable or immoveable property on behalf of the University.

*(Schedule I.—First Statutes of the University.)**Class III.—Nominated Members.*

(a) Five members to be nominated by the Visitor.

(2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Senate.

(3) The elected and nominated members of the Senate shall hold office for five years :

Provided that, as nearly as may be one-fifth of the total number of the members of the first Senate shown in each of the groups of Class II and of those shown in Class III shall retire by ballot at the end of each year for the first four years.

(4) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(5) Fifteen members of the Senate shall form a quorum.

20. (1) The Senate shall be the academic body of the University and subject to the Act, the Statutes and Regulations of the University, shall have entire charge of the organization of instruction, the courses of study and the examination and discipline of students (save so far as matters of discipline rest with the Pro-Vice-Chancellor and the heads of colleges) and the conferment of ordinary and honorary degrees.

(2) Subject to the Act and the Statutes and any Regulations made in pursuance thereof, the Senate shall, in addition to all other powers vested in it, have the following powers, namely :—

(i) To report on any matter referred to or delegated to them by the Court or the Council.

(ii) To discuss, and declare an opinion on, any matter whatsoever relating to the University.

(iii) To make recommendations to the Council or to the Board of Appointments as to the removal of any Professor or Teacher of the University or of its Colleges, or as to the appointment of additional Professors or Teachers for the University or its Colleges.

(iv) To formulate and modify or revise schemes for the organization of Faculties, and to assign to such Faculties their respective subjects and also to report to the Council as to the expediency of the abolition, combination, or sub-division of any Faculty.

(v) To fix subject to any conditions made by the Founders which are accepted by the Court, the times and mode and conditions of competition for fellowships, scholarships, and other prizes, and to award the same.

(vi) To promote research within the University and to require, from time to time, reports on such research.

(vii) To maintain a register of graduates.

(Schedule I.—First Statutes of the University.)

of (6) Technology, (7) Commerce, (8) Medicine and Surgery, (9) Agriculture, and other Faculties.

(2) The Senate shall annually assign its members to the different Faculties.

(3) The method of assignment of members to the Faculties, the meetings of the Faculties, and their power of co-opting additional members shall be provided for by Regulations :

Provided that the members assigned to the Faculty of Theology shall all be Hindus.

24. (1) The Faculties shall have such powers, and shall perform such duties, as may be assigned to them by the Statutes and the Regulations, and shall, from time to time, appoint such and so many Boards of Studies, in different branches of knowledge as may be prescribed by the Regulations. They shall also consider and make such recommendations to the Senate on any question pertaining to their respective sphere of work as may appear to them necessary, or on any matter referred to them by the Senate.

(2) Five members, in the case of the Faculty of Arts, and three members, in the case of the other Faculties, shall constitute a quorum.

25. Convocations of the University for the conferring of degrees, or for other purposes, shall be held in a manner to be prescribed by Regulations.

26. The Court, Council, Senate, Syndicate and the Faculties may, from time to time, appoint such and so many standing and special Committees or Boards as may seem to them fit, and may, if they think fit, place on them persons who are not members of the appointing bodies. Such Committees may deal with any subject delegated to them, subject to subsequent confirmation by the appointing body.

27. (1) The Board of Appointments shall consist of—

- (i) The Vice-Chancellor.
- (ii) The Pro-Vice-Chancellor.
- (iii) Two members to be elected by the Court.
- (iv) Two members to be elected by the Council.
- (v) Two members to be elected by the Senate.
- (vi) Two members to be elected by the Syndicate.

(2) The elected members shall hold office for the term of two years. One member from each electing body, to be determined by ballot, shall retire at the end of the first year.

(3) The Vice-Chancellor shall preside at the meetings of this Board or, in his absence, the Pro-Vice-Chancellor.

(4) The meetings of the Board shall be convened by the Vice-Chancellor or Pro-Vice-Chancellor, or, when so directed by the Syndicate, by the Registrar.

(5) The Board shall consider and submit recommendations as to all appointments referred to it.

28. No Act or Resolution of the Court, the Council, the Senate, the Syndicate or the Faculties or any other authority shall be invalid by reason only of any vacancy in the body doing or passing it, or by reason of any want

2. In this Act, "Western medical science" means the Western methods of Allopathic medicine, Ohstetrics and Surgery, but does not include the Homœopathic or Aynurvedic or Unani system of medicine.

3. The right of conferring, granting, or issuing in British India degrees, diplomas, licences, certificates or other documents stating or implying that the holder, grantee or recipient thereof is qualified to practise Western medical science, shall be exercisable only by the authorities specified in the Schedule, and by such other authority as the ¹[Provincial Government] may, by notification² in the ³[Official Gazette], and subject to such conditions and restrictions as ⁴[it] thinks fit to impose, authorise in this behalf.

4. Save as provided by section 3, no person in British India shall confer, grant, or issue, or hold himself out as entitled to confer, grant, or issue any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practise Western medical science.

5. Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to one thousand rupees; and, if the person so contravening is an association, every member of such association who knowingly and wilfully authorises or permits the contravention, shall be punishable with fine which may extend to five hundred rupees.

6. Whoever voluntarily and falsely assumes, or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred, granted or issued by any authority referred to in section 3, or recognized by the General Council of Medical Education of the United Kingdom, or that he is qualified to practise Western medical science, shall be punishable with fine which may extend to two hundred and fifty rupees, or, if he subsequently commits, and is convicted of, an offence punishable under this section, with fine which may extend to five hundred rupees:

Provided that nothing in this section shall apply to the use by any person of any title, description, or addition which, prior to the commencement of this Act, he used in virtue of any degree, diploma, licence or certificate conferred upon, or granted or issued to him.

7. No Court shall take cognizance of an offence punishable under this Act except upon complaint made by order of the ⁵[Provincial Government], or upon complaint made, with the previous sanction of the ⁵[Provincial Government], by a Council of Medical Registration established by any enactment for the time being in force in the province.

8. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

¹ Subs. by the A. O. for "G. G. in C."

² For notifications authorising certain institutions in the various provinces to grant certificates, diplomas, degrees, etc., see Gen. R. and O., Vol. IV, pp. 513-515.

³ Subs. by the A. O. for "Gazette of India".

⁴ Subs. by the A. O. for "he".

⁵ Subs. by the A. O. for "L. G."

(b) in respect of dispositions by will, those contained in ¹[sections 113, 114, 115 and 116 of the Indian Succession Act, 1925.] X
19

4. [*Failure of prior disposition.*] *Rep. by the Transfer of Property (Amendment) Supplementary Act, 1929 (XXI of 1929), s. 12.*

5. Where the ²[Provincial Government] is of opinion that the Khoja community in ³[the Province] or any part thereof desire that the provisions of this Act should be extended to such community, ⁴[it] may, by notification in the ⁵[Official Gazette], declare that the provisions of this Act, with the substitution of the word "Khojas" or "Khoja", as the case may be, for the word "Hindus" or "Hindu" wherever those words occur, shall apply to that community in such area as may be specified in the notification, and this Act shall thereupon have effect accordingly.

¹ Subs. by the Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929), s. 12, for "sections 100 and 101 of the Indian Succession Act, 1865".

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "British India".

⁴ Subs. by the A. O. for "he".

⁵ Subs. by the A. O. for "Gazette of India".

(The Third Schedule.—Form F.)

CAPITAL AND LIABILITIES.				PROPERTY AND ASSETS.			
(a) Secured—				(Distinguishing between those considered good and in respect of which the company is fully secured and those considered good for which the company holds no security other than the debtor's personal security, and distinguishing between debts considered good and debts considered doubtful or bad. Debts due by directors or other officers of the company or any of them either severally or jointly with any other persons to be separately stated.)			
(i) loans on mortgages or fixed assets	.....	.....	.....	ADVANCES	.....	.....	.....
(ii) loans on debentures	.....	.....	.....	(Recoverable in cash or in kind or for value to be received, e.g., Rates, Taxes, Insurance, etc., showing separately—	.....	.....	.....
(iii) loans from banks, stating the nature of security	.....	.....	.....	(i) loans given to subsidiary companies	.....	.....	.....
(iv) liabilities to subsidiary companies	.....	.....	.....	(ii) loans including temporary advances made at any time during the year to directors or managers of the company)	.....	.....	.....
(v) other secured loans, stating the nature of security	.....	.....	.....	INVESTMENTS	.....	.....	.....
(vi) interest accrued on mortgages, debentures or other secured loans	.....	.....	.....	(Showing nature of investments and mode of valuation, e.g., Cost or Market value and distinguishing—	.....	.....	.....
(b) Unsecured—	.....	.....	.....	(i) investments in Government or trust securities	.....	.....	.....
(i) loans from banks	.....	.....	.....	(ii) investments in shares, debentures or bonds (showing separately shares fully paid up and partly paid up)	.....	.....	.....
(ii) fixed deposits	.....	.....	.....	(iii) investments in shares, debentures or bonds of subsidiary companies	.....	.....	.....
(iii) short term loans	.....	.....	.....	(iv) immovable properties	.....	.....	.....
(iv) advances by directors or managers and managing agents	.....	.....	.....	INTEREST ACCRUED ON INVESTMENTS	.....	.....	.....
(v) interest accruing but not due and interest accrued and due	.....	.....	.....	CASH AND OTHER BALANCES	.....	.....	.....
(vi) liabilities to subsidiary companies	.....	.....	.....	Amount in hand	.....	.....	.....
UNCLAIMED DIVIDENDS	.....	.....	.....	Balances with Agents and Bankers (In detail showing whether on deposit or current account, etc.)	.....	.....	.....
LIABILITIES—	.....	.....	.....	PROFIT AND LOSS	.....	.....	.....
For Goods supplied	.....	.....	.....		.....	.....	.....
For Expenses	.....	.....	.....		.....	.....	.....
For Acceptances	.....	.....	.....		.....	.....	.....
For Other Finance	.....	.....	.....		.....	.....	.....
ADVANCE PAYMENTS AND UNEXPIRED DISCOUNTS	.....	.....	.....		.....	.....	.....
(For the portion for which value has still to be given, e.g., in the case of the following classes of companies— Newspaper, Fire Insurance, Theatre, Club, Banking, Steamship Companies, etc.)	.....	.....	.....		.....	.....	.....
PROFIT AND LOSS	.....	.....	.....		.....	.....	.....
CONTINGENT LIABILITIES—	.....	.....	.....		.....	.....	.....
Claims against the company not acknowledged as debts	.....	.....	.....		.....	.....	.....
Money for which the company is contingently liable	.....	.....	.....		.....	.....	.....
(Showing separately the amount of any guarantees given by the company on behalf of directors or officers of the company.)	.....	.....	.....		.....	.....	.....
Arrears of Cumulative Preference Dividend	.....	.....	.....		.....	.....	.....

The information required to be given under any of the items or sub-items in this Form if not included in the Balance-Sheet itself shall be furnished in a separate Schedule or Schedules to be attached to and to form part of the Balance-Sheet.]

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

But the above rules shall be subject to the following exceptions :—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with, or done any work for, the Company of which he is director ; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

(58) At the first ordinary meeting after the registration of the Company the whole of the directors shall retire from office ; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59) The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60) A retiring director shall be re-eligible.

(61) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62) If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place ; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65) The Company in general meeting may by a special resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine

*(The Third Schedule.—Form H.)*8. *Contingent Liabilities.*9. *Arrears of Cumulative Preference Dividend.**Assets.*

1. *Fixed Assets, with sufficient particulars to disclose their general nature and stating how their values are arrived at.*
2. *Preliminary expenses, so far as not written off.*
3. *Any expenses incurred in connection with any issue of Share Capital or Debentures, so far as not written off.*
4. *If it is shown as a separate item in or is otherwise ascertainable from the books of the Company, or from any contract for the sale or purchase of any property to be acquired by the Company, or from any documents in the possession of the Company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property the amount of the goodwill and of any patents and trade marks as so shown or ascertained.*
5. *Interest paid on Capital, so far as not written off, showing the Share Capital on which and the rate at which interest has been paid out of Capital during the period to which the accounts relate.*
6. *Discount allowed on Shares issued, so far as not written off.*
7. *Commission paid or allowed in respect of any shares or debentures, so far as not written off.*
8. *Loans outstanding to enable employees or trustees on their behalf to purchase shares in the Company.*
9. *Particulars showing :—*
 - (a) *the amount of any loans which during the period to which the accounts relate have been made either by the Company or by any other person under a guarantee from or on a security provided by the Company to any director or officer of the Company, including any such loans which were repaid during the said period ;*
and
 - (b) *the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof ;*
and
 - (c) *the total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages, or other emoluments, paid to or receivable by them by or from the Company or by or from any subsidiary Company.*

Note (1)—There shall not be required to be shown :—

- (a) *in the case of a Company the ordinary business of which includes the lending of money, loans made by the Company in the ordinary course of its business ; or*

(Appendix II.—Table A in the First Schedule to Act VI of 1882)

(76) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned ; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77) No dividend shall bear interest against the Company.

Accounts.

(78) The directors shall cause true accounts to be kept

of the stock in trade of the Company ;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place ; and

of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meetings, shall be open to the inspection of the members during the hours of business.

(79) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82) A printed copy of such balance-sheet shall, seven days previously to each meeting, be served on every member in the manner in which notices are ordinarily directed to be served.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

APPENDIX I.

(Table B in Schedule to Act XIX of 1857.)¹

REGULATIONS FOR MANAGEMENT OF THE COMPANY.

Shares.

1. No person shall be deemed to have accepted any share in the Company unless he has testified his acceptance thereof by writing under his hand in such form as the Company from time to time directs.

2. The Company may from time to time make such calls upon the shareholders, in respect of all moneys unpaid on their shares, as they think fit, provided that twenty-one days' notice at least is given of each call; and each shareholder shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Company.

3. A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If, before or on the day appointed for payment, any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of 5 per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The Company may, if they think fit, receive, from any of the shareholders willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for, and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the shareholder paying such sum in advance and the Company agree upon.

6. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

7. The Company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of such sum not exceeding eight annas as the Company may prescribe, be entitled to a certificate, under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed on payment of such sum, not exceeding eight annas, as the Company may prescribe.

10. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

¹ See s. 290 (1) (b) of the Indian Companies Act, 1913 (7 of 1913).
The Table is reproduced here as an Appendix for convenience of reference.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

Notices.

(95) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members ; and notice so given shall be sufficient notice to all the holders of such share.

(97) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post ; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

THE DESTRUCTIVE INSECTS AND PESTS ACT, 1914.

ACT No. II OF 1914¹.

[3rd February, 1914

An Act to prevent the introduction into British India of any insect fungus or other pest, which is or may be destructive to crops.

WHEREAS it is expedient to make provision for preventing the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops ; It is hereby enacted as follows :—

1. This Act may be called the Destructive Insects and Pests Act, 1914.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “ crops ” includes all agricultural or horticultural crops, and trees or bushes ;

(b) “ import ” means the bringing or taking by sea ²[land or air ³[across any customs frontier as defined by the Central Government] ; and

(c) “ infection ” means infection by any insect, fungus or other pest injurious to a crop.

3. (1) The ⁴[Central Government] may, by ⁵ notification in the ⁶ [Official Gazette], prohibit or regulate, subject to such restrictions and conditions as ⁷ [it] may impose, the import into British India, or any part thereof, or any specified place therein, of any article or class of articles likely to cause infection to any crop.

(2) A notification under this section may specify any article or class of articles, either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

4. A notification under section 3 shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878, and the officers of Customs at every port shall have the same powers in respect of any article with regard to the importation of which such a notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs, and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 166 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 7 ; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 518, *ibid.*, 1914, Pt. VI, pp. 64 and 188.

² Subs. by the Destructive Insects and Pests (Amendment) Act, 1930 (20 of 1930), s. 2, for “ or land ”.

³ Ins. by the A. O. For definition of customs frontier, see Gazette of India Extraordinary, dated 1st April, 1937, p. 433.

⁴ Subs. by the A. O. for “ G. G. in C.”

⁵ See notification of the G. of I. in the E., H. & L. Dept., No. F-320/35-A, dated 20th July 1936.

⁶ Subs. by the A. O. for “ Gazette of India ”.

⁷ Subs. by the A. O. for “ he ”.

(Chapter I.—Preliminary.)

CHAPTER III.

PENALTIES.

SECTIONS.

7. Offences in respect of infringing copies.
8. Possession of plates for purpose of making infringing copies.
9. Punishment on second conviction.
10. Power of Court to dispose of infringing copies or plates for purpose of making infringing copies.
11. Cognizance of offences.
12. Saving in case of infringement by construction of building.

CHAPTER IV.

MISCELLANEOUS.

13. Courts having civil jurisdiction regarding infringement of copy-right.
14. Effect of non-registration under Act XX of 1847.
15. [*Repealed.*]

THE FIRST SCHEDULE.—PORTIONS OF THE COPYRIGHT ACT APPLICABLE TO BRITISH INDIA.

THE SECOND SCHEDULE.—[*Repealed.*]ACT No. III OF 1914¹.

[24th February, 1914.]

An Act to modify and add to the provisions of the Copyright Act, 1911.

WHEREAS it is expedient to modify and add to the provisions of the ² Copyright Act, 1911, in its application to British India ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Copyright Act, 1914.
- (2) It extends to the whole of British India including British Baluchistan, the District of Angul³ and the Sonthal Parganas.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 163 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 23 ; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 515, *ibid.*, 1914, Pt. VI, pp. 12 and 369.

² Coll. Stat., Vol. II, and *infra*.

³ Now two districts, *viz.*, the Khondmals District and the Angul District. This Act has been declared to be in force in these two districts by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch., respectively.

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

59. A committee may elect a chairman of their meetings : if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

60. A committee may meet and adjourn as they think proper : questions at any meeting shall be determined by a majority of votes of the members present ; and in case of an equal division of votes, the chairman shall have a casting vote.

61. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

62. The director shall cause minutes to be made in books provided for the purpose—

- (1) of all appointments of officers made by the directors ;
- (2) of the names of the directors present at each meeting of directors and committees of directors ;
- (3) of all orders made by the directors and committees of directors ; and
- (4) of all resolutions and proceedings of meetings of the Company, and of the directors and committees of directors.

And any such minute as aforesaid if signed by any person purporting to be the chairman of any meeting of directors, or committee of directors, shall be receivable in evidence without any further proof.

63. The Company, in general meeting, may, by a special resolution, remove any director before the expiration of his period of office, and appoint another qualified person in his stead ; the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

64. The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

65. The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company, or any part thereof ; and the directors may invest the sum so set apart as a reserved fund upon such securities as they, with the sanction of the Company, may select.

(Chapter II.—Construction and Modification of the Copyright Act.)

India ; and the reference in proviso (b) of the same sub-section of the same section to the 26th day of July, 1910, shall, as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, be construed as a reference to the 30th day of October, 1912.

4. (1) In the case of works first published in British India, copyright shall be subject to this limitation that the sole right to produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work :

Provided that if within the said period the author, or any person to whom he has granted permission so to do, publishes a translation of any such work in any language, copyright in such work as regards the sole right to produce, reproduce, perform or publish a translation in that language shall not be subject to the limitation prescribed in this sub-section.

(2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

5. In the application of the Copyright Act to musical works the authors whereof were at the time of the making of the works resident in British India, or to musical works first published in British India, the term "musical work" shall, save as otherwise expressly provided by the Copyright Act, mean "any combination of melody and harmony, or either of them, which has been reduced to writing".

6. (1) Copies made out of British India of any work in which copyright subsists which if made in British India would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs officer, as defined in the Sea Customs Act, 1878, that he is desirous that such copies should not be imported into British India, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the Sea Customs Act, 1878.

(2) Before detaining any such copies, or taking any further proceedings with a view to the confiscation thereof, such Chief Customs officer, or any other officer appointed by ¹[the Chief Customs-authority] in this behalf, may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with these regulations, that the copies are such as are prohibited by this section to be imported.

(3) The ²[Central Government] may, by notification in the ³[Official Gazette] make regulations, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this section,

¹ Subs. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch. for "the L. G."

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "Gazette of India".

(Appendix I.—Table B in Schedule to Act XIX of 1857.)

76. The election of auditors shall be made by the Company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

77. The remuneration of the auditors shall be fixed by the Company at the time of their election.

78. Any auditor shall be re-eligible on his quitting office.

79. If any casual vacancy occurs in the office of auditor, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

80. If no election of auditors is made in manner aforesaid, the Local Government may, on the application of one-fifth in number of the shareholders of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

81. Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

82. Every auditor shall have a list delivered to him of all books kept by the Company, and he shall at all reasonable times have access to the books and accounts of the Company; he may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the directors or any other officer of the Company.

83. The auditors shall make a report to the shareholders upon the balance-sheet and accounts; and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

84. Notices requiring to be served by the Company upon the shareholders may be served either personally, or by leaving the same, or sending them through the post in a letter addressed to the shareholders, at their registered places of abode.

85. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of shareholders; and notice so given shall be sufficient notice to all the proprietors of such share.

(Chapter III.—Penalties. Chapter IV.—Miscellaneous.)

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8, is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

10. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

(2) Any person affected by an order under sub-section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie ; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

11. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture, applies.

CHAPTER IV.

MISCELLANEOUS.

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge.

14. No suit or other civil proceeding instituted after the 30th of October, 1912, regarding infringement of copyright in any book the author whereof was at the time of making the book resident in British India, or of any book first published in British India, shall be dismissed by reason only that the registration of such book had not been effected in accordance with the provisions of of 1847. the Indian Copyright Act, 1847.

15. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

APPENDIX II.

(Table A in the First Schedule to Act VI of 1882.)¹

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3) If such certificate is worn out or lost, it may be renewed on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4) The directors may from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5) A call shall be deemed to have been made at the time when the resolution of the directors authorising such call was passed.

(6) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and, upon the moneys so paid in advance, or so much thereof as from time to time exceed the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

¹ See section 290 (1) (c) of the Indian Companies Act, 1913 (VII of 1913)
The Table is reproduced here as an Appendix for convenience of reference.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

Special Provisions as to certain Works.

SECTIONS.

16. Works of joint authors.
17. Posthumous works.
18. Provisions as to Government publications.
19. Provisions as to mechanical instruments.
20. Provision as to political speeches.
21. Provision as to photographs.
22. Provisions as to designs registrable under 7 Edw. 7, c. 29.
23. Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.
24. Existing works.

Application to British Possessions.

25. Application of Act to British dominions.
26. Legislative powers of self-governing dominions.
27. Power of Legislatures of British possessions to pass supplemental legislation.
28. Application to protectorates.

PART II.

INTERNATIONAL COPYRIGHT.

29. Power to extend Act to foreign works.
30. Application of Part II to British possessions.

PART III.

SUPPLEMENTAL PROVISIONS.

31. Abrogation of common law rights.
32. Provisions as to Orders in Council.
33. Saving of university copyright.
34. Saving of compensation to certain libraries.
35. Interpretation.
36. Repeal.
37. Short title and commencement.

SCHEDULES.

(The First Schedule.—Portions of the Copyright Act applicable to British India.

- (d) in the case of a literary, dramatic or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered ;

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art. but for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright. Provided that the following acts shall not constitute an infringement of copyright :—

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary :
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work provided that he does not thereby repeat or imitate the main design of that work :
- (iii) The making or publishing of paintings, drawings, engravings or photographs, of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art :
- (iv) The publication in a collection, mainly composed of non-copyright matter, *bonâ fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists : Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged :
- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which

(Appendix II.—Table A in the First Schedule to Act VI of 1882)

the call remains unpaid, serve a notice on him requiring him to pay such sum together with interest and any expenses that may have accrued by reason of such non-payment.

(18) The notice shall name a further day on or before which such sum and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call made will be liable to be forfeited.

(19) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20) Any share so forfeited shall be deemed to be the property of the Company and may be disposed of in such manner as the Company in general meeting thinks fit.

(21) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the date of the forfeiture.

(22) A solemn declaration in writing, made before a Magistrate, that a call in respect of a share was made and notice thereof given, and that payment of the call was made and that the forfeiture of the share was effected by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share and the declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the owner of such share discharged from all calls due prior to such purchase, and shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into

(23) The directors may, with the sanction of a resolution in general meeting, convert

(24) When any shares have been converted into stock, any part of such interest, in the same manner as and subject to which any shares in the

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

(51) Any instrument appointing a proxy shall be in the following form :—
 _____ Company, Limited.

I, _____, of _____, being a member of
 the _____ Company, Limited, and entitled to
 vote or _____ votes, hereby appoint _____, of _____, as
 my proxy to vote for me and on my behalf at the [ordinary or extraordinary
as the case may be] general meeting of the Company to be held on the
 _____ day of _____, and at any adjournment thereof (or
 at any meeting of the Company that may be held in the year _____).
 As witness my hand, this _____ day of _____, Signed
 by the said _____ in the presence of _____.

Directors.

(52) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

Powers of Directors.

(55) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57) The office of director shall be vacated—

if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company;
 if he becomes bankrupt or insolvent;
 if he is punished under any of the penal provisions of the foregoing Act;
 if he is concerned in or participates in the profits of any contract with the Company.

(The First Schedule.—Portions of the Copyright Act applicable to British India,

production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had not reasonable ground for suspecting, that copyright subsisted in the work.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*

Importation of Copies.

11. (1) Copies made out of the United Kingdom of any work in which copyright exists which is made in the United Kingdom with intent to supply copies, and as to which the owner of the copyright gives notice in writing in duplicate or his agent to the Commissioners of Customs and Excise, shall not be deemed to be such copies as shall not be imported into the United Kingdom and shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the rate of prohibition and restrictions established in section 41 of the Customs Consolidation Act, 1859, and that section shall apply accordingly.

(2) Before allowing any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations made by the Board of Trade as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section or be imported.

(*The First Schedule.—Portions of the Copyright Act applicable to British India.*)

finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

Special Provisions as to certain Works.

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof :

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(Appendix II.—Table A in the First Schedule to Act VI of 1882.)

Audit.

(83) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86) The auditors may be members of the Company, but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company, and no director or other officer of the Company is eligible during his continuance in office.

(87) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88) The remuneration of the first auditors shall be fixed by the directors; that of subsequent auditors shall be fixed by the Company in general meeting.

(89) Any auditor shall be re-eligible on his quitting office.

(90) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91) If no election of auditors is made in manner aforesaid the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year and fix the remuneration to be paid to him by the Company for his services.

(92) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94) The auditors shall make a report to the members upon the balance-sheet and accounts, and in such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

(The First Season.)—

(Appendix II.—Table A in Schedule to Act VI of 1882.)

Cr.

FORM OF BALANCE-SHEET REFERRED TO IN TABLE A.

18

Company made up to

Balance-sheet* of the

Dr.

PROPERTY AND ASSETS.

CAPITAL AND LIABILITIES.

CAPITAL AND LIABILITIES.		PROPERTY AND ASSETS.	
		Rs.	As.
I.—CAPITAL.			
	SHOWING—		
1	The number of shares		7
2	The amount paid per share		
3	If any arrears of calls, the nature of the arrear and the names of the defaulters		
4	The particulars of any forfeited shares		
	SHOWING—		
5	The amount of loans or mortgages or debenture bonds		8
6	The amount of debts owing by the Company—distinguishing— (a) Debts for which acceptances have been given (b) Debts to tradesmen for supplies of stock-in-trade or other articles (c) Debts for law expenses (d) Debts for interest on debentures or other loans (e) Unclaimed dividends (f) Debts not enumerated above		
	SHOWING—		
	The amount set aside from profits to meet contingencies		9
	SHOWING—		
	The disposable balance for payment of dividends, etc		10
	Claims against the Company not acknowledged as debts.		11
	Moneys for which the Company is contingently liable		12
II.—DEBTS AND LIABILITIES OF THE COMPANY.			
	SHOWING—		
	Debts considered good for which the Company hold bills or other securities		13
	Debts considered good for which the Company hold no security		
	Debts considered doubtful and bad		
	Any debt due from a Director or other officer of the Company to be separately stated		
	SHOWING—		
	The nature of investment and rate of interest		
	The amount of cash, where lodged and if bearing interest		
III.—PROPERTY HELD BY THE COMPANY.			
	SHOWING—		
	Immovable property—distinguishing— (a) Freehold land (b) buildings (c) Leasehold		
	Movable property—distinguishing— (d) Stock-in-trade (e) Plant		
	The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss		
IV.—DEBTS OWING TO THE COMPANY.			
	SHOWING—		
	Debts considered good for which the Company hold bills or other securities		
	Debts considered good for which the Company hold no security		
	Debts considered doubtful and bad		
	Any debt due from a Director or other officer of the Company to be separately stated		
V.—CASH AND INVESTMENTS.			
	SHOWING—		
	The nature of investment and rate of interest		
	The amount of cash, where lodged and if bearing interest		

* See clauses 81 and 82 of the foregoing Table A.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

PART II.

INTERNATIONAL COPYRIGHT.

29. (1) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends ;
- (b) to literary, dramatic, musical and artistic works, or any class thereof, the authors whereof were, at the time of the making of the works, subjects or citizens of a foreign country to which the Order relates, in like manner as if the authors were British subjects ;
- (c) in respect of residence in a foreign country to which the Order relates in like manner as if such residence were residence in the parts of His Majesty's dominions to which the Act extends ;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly :

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act ;
- (ii) the Order in Council may provide that the terms of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates ;
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order ;

5. (1) The ¹ [Provincial Government] may ² * * * * make rules for the detention, inspection, disinfection or destruction of any article or class of articles in respect of which a notification has been issued under section 3 or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the ¹ [Provincial Government] may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

6. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE INDIAN COPYRIGHT ACT, 1914.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
 2. Definitions.
-

CHAPTER II.

CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. Application of Copyright Act to British India with adaptations.
 4. Modification of copyright as regards translation of works first published in British India.
 5. Musical works made by resident of, or first published in, British India.
 6. Importation of copies.
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¹ Subs. by the A. O. for "L. G."

² The words "subject to the Control of the G. G.-in C." rep. by the A. O.

{The First Schedule.—Portions of the Copyright Act applicable to British India.}

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made under this Act shall be published in the London Gazette and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books :

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35. (1) In this Act, unless the context otherwise requires,—

“Literary work” includes maps, charts, plans, tables, and compilations ;

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character.

“Artistic work” includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs ;

“Work of sculpture” includes casts and models ;

“Architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction ;

“Engravings” include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs ;

(Chapter I.—Preliminary. Chapter II.—Construction and Modification of the Copyright Act.)

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) “the Copyright Act” means the Act of Parliament entitled the¹ Copyright Act, 1911; and
- (2) words and expressions defined in the Copyright Act have the same meanings as in that Act.

1 & 2 G.
5, c. 46.

CHAPTER II.

CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to British India of the Copyright Act (a copy of which Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely :—

- (1) the powers of the Board of Trade under section 3 shall, in the case of works first published in British India, be exercised by the² [Central Government];
- (2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in British India, be exercised by the² [Central Government]; and the confirmation of Parliament shall not be necessary to the exercise of any of these powers;
- (3) the references in section 19, sub-section (4), and in section 24, sub-section (1), to arbitration shall be read as references to arbitration in accordance with the law for the time being in force in that part of British India in which the dispute occurs;
- (4) as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, the reference in section 22 to the Patents and Designs Act, 1907, shall be construed as a⁷ Edw. VII, c. 29, reference to the Indian Patents and Designs Act, 1911, and the^{II} of 1911. reference in the said section to section 86 of the Patents and Designs Act, 1907, shall be construed as a reference to section 77⁷ Edw. VII, c. 29, of the Indian Patents and Designs Act, 1911; II of 1911.
- (5) as regards works first published in British India, the reference in section 24, sub-section (1), proviso (a), to the London Gazette and two London newspapers shall be construed as a reference to the Gazette of India and two newspapers published in British

¹ Coll. Stat., Vol. II, and *infra*.

² Subs. by the A. O. for “G. G. in C.”

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.

36. Subject to the provisions of this Act, the enactments mentioned in Re the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

- (a) in the United Kingdom, on the 1st day of July, 1912, or such earlier date as may be fixed by Order in Council ;
- (b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion ;
- (c) in the Channel Islands, at such date as may be fixed by the States of those Islands respectively ;
- (d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

SCHEDULES.

FIRST SCHEDULE.

Section 24.

EXISTING RIGHTS.

Existing Right.	Substituted Right.
(a) In the case of Works other than Dramatic and Musical Works.	
Copyright	Copyright as defined by this Act.*
(b) In the case of Musical and Dramatic Works.	
Both copyright and performing right	Copyright as defined by this Act.*
Copyright, but not performing right	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright	The sole right to perform the work in public but none of the other rights comprised in copyright as defined by this Act.

* In the case of an essay, article, or portion forming part of and first published in a review, magazine or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

Session and Chapter.	Short Title.	Extent of Repeal.
38 & 39 Vict., c. 12 .	The International Copyright Act, 1875.	The whole Act.
39 & 40 Vict., c. 36 .	The Customs Consolidation Act, 1876.	Section 42 from "Books wherein" to "such copyright will expire". Sections 44, 45 and 152.
45 & 46 Vict., c. 40 .	The Copyright (Musical Compositions) Act, 1882.	The whole Act.
49 & 50 Vict., c. 33 .	The International Copyright Act, 1886.	Ditto.
51 & 52 Vict., c. 17 .	The Copyright (Musical Compositions) Act, 1888.	Ditto.
52 & 53 Vict., c. 42 .	The Revenue Act, 1889 . . .	Section 1, from "Books first published" to "as provided in that section".
6 Edw. 7, c. 36 . . .	The Musical Copyright Act, 1906 . . .	In section 3 the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886".

THE SECOND SCHEDULE.—[REPEAL OF EXACTMENTS.] Rep. by the
Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE INDIAN MOTOR VEHICLES ACT, 1914.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
Extent and Commencement.
2. Definitions.

PART II.

PROVISIONS OF GENERAL APPLICATION.

3. Prohibition of driving motor vehicles by persons under 18,

(The First Schedule.--Portions of the Copyright Act applicable to British India.)

CHAPTER 46.

An Act to amend and consolidate the Law relating to Copyright.

[16th December, 1911.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

IMPERIAL COPYRIGHT.

Rights.

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original literary, dramatic, musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid ; and
- (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid ;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public ; if the work is unpublished, to publish the work or any substantial part thereof ; and shall include the sole right—

- (a) to produce, reproduce, perform, or publish any translation of the work ;
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work ;
- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;

(Part III.—Licensing and Control.)

Provided that no certificate of registration shall be valid ¹[in any area outside the province in which it is granted unless it is issued in accordance with such conditions and restrictions as ²[the Provincial Government of the area] may impose.

11. (1) The ³[Provincial Government], subject to the condition of previous publication, shall make ⁴rules for the purpose of carrying into effect the provisions of this Act and of regulating, in the whole or any part of the territories under its administration, the use of motor vehicles or any class of motor vehicles in public places.

(2) In particular, and without prejudice to the generality of the foregoing powers, the ³[Provincial Government] may make rules for all or any of the following purposes, namely :—

- (a) providing for the registration of motor vehicles, and the conditions subject to which such vehicles may be registered, the fees payable in respect of and incidental to registration, the issue of certificates of registration, the notification of any changes of ownership, and (subject to the provisions of section 10), the area in which ⁵[and the duration for which] certificates of registration shall be valid ;
- (b) providing for facilitating the identification of motor vehicles and the assignment of distinguishing numbers to such vehicles and the displaying of number and name plates thereon, or in any other manner ;
- (c) regulating the construction and equipment of motor vehicles, including the provision and use of lights, bells, horns, brake speed-indicators or other appliances ;
- (d) prescribing the authority by which, and the conditions subject to which, drivers of motor vehicles or any class of such drivers may be licensed, the fees payable in respect of such licences and (subject to the provisions of section 9), the area within which, and the duration for which, licences shall be valid ;
- ⁶[(dd) prescribing the authority by which, and the conditions and limitations subject to which, licences may be suspended or cancelled] ;
- (e) prescribing the conditions subject to which, and the fees (if any) on payment of which, motor vehicles may be let or hired for hire in public places, generally or in any particular public place ;

¹ Ins. by the A. O.

² Subs. by the A. O. for "the G. G. in C."

³ Subs. by the A. O. for "L. G."

⁴ For such rules see the local R. and O., or Motor Vehicle Manuals of the various Provinces.

⁵ Ins. by the Indian Motor Vehicles (Amendment) Act, 1924 (15 of 1924), s. 2.

⁶ Ins. by the Indian Motor Vehicles (Amendment) Act, 1920 (27 of 1920), s. 2.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer ; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries :

(vi) The reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who—

(a) sells or lets for hire, or by way of trade exposes or offers for sale or hire ; or

(b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or

(c) by way of trade exhibits in public ; or

(d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death :

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act, thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work ; and, for the purposes of this proviso, the Board of Trade may make ¹regulations prescribing the mode in which notices are to be given, and the particulars to be given

¹ Regulations called the Indian Copyright Regulations, 1914, have been made under the proviso to s. 3 and in conjunction with sections 14 and 19 of this Act as modified in its application to British India, see Gen. R. and O., Vol. IV, p. 480.

(Part IV.—Motor Vehicles temporarily leaving or visiting British India. Part V.—Miscellaneous.)

their motor vehicles out of British India, or to drivers of such vehicles when proceeding out of British India for the purpose of driving such vehicles, and

- (ii) prescribing the conditions subject to which motor vehicles brought temporarily into British India by persons intending to make a temporary stay there may be possessed, used and driven.

(2) All rules made under this section shall be published in the ¹[Official Gazette]; and, on such publication, shall have effect as if enacted in this Act.

15. Nothing in this Act or in any rule made ²[by the ³[Provincial Government] under section 11] relating to—

- (a) the registration of motor vehicles,
- (b) requirements as to construction, identification or equipment of such vehicles, or
- (c) the licensing or qualifications of drivers of such vehicles,

shall apply in the case of any motor vehicle ⁴[governed by rules made under] clause (ii) of sub-section (1) of section 14, or of any person possessing, using or driving the same, provided that the requirements of ⁵[the said rules] applicable to such vehicle or person are complied with.

PART V.

MISCELLANEOUS.

16. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with fine which may extend to one hundred rupees, and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to two hundred rupees.

17. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

¹ Subs. by the A. O. for " Gazette of India ".

² The words and figures " by the L. G. under s. 11 " were subs. by the Amending Act, 1916 (13 of 1916), s. 2 and Sch., for " thereunder ".

³ Subs. by the A. O. for " L. G. "

⁴ Subs. by the A. O. for " such as is referred to in ".

⁵ Subs. by the A. O. for " any rule made under the said clause and ".

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the rights so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or as the case may be, the title of the plaintiff, and where any such question is in issue, then—

(a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work ;

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the

THE LOCAL AUTHORITIES LOANS ACT, 1914.

ACT NO. IX OF 1914.¹

[28th February, 1914.]

An Act to consolidate and amend the law relating to the grant of loans to Local Authorities.

WHEREAS it is expedient to consolidate and amend the law relating to the borrowing powers of local authorities ; It is hereby enacted as follows :—

1. (1) This Act may be called the Local Authorities Loans Act, 1914.

(2) It extends to the whole of British India, including the Sonthal Parganas.

2. In this Act, "local authority" means any person legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area ;

"funds", used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority ;

"prescribed" means prescribed by rules made under this Act ; and

"work" includes a survey, whether incidental to any other work or not.

²["The Government" or "the appropriate Government" means, in relation to cantonment authorities and in relation to port authorities in major ports, the Central Government, and in relation to other local authorities, the Provincial Government.]

3. (1) A local authority may, subject to the prescribed conditions, borrow on the security of its funds or any portion thereof for any of the following purposes, namely :—

- (i) the carrying out of any works which it is legally authorized to carry out,
- (ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity,
- (iii) the prevention of the outbreak or spread of any dangerous epidemic disease,
- (iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),
- (v) the repayment of money previously borrowed in accordance with law :

¹ For Statement of Objects and Reasons, see Gazette of India, 1914, Pt. V, p. 5 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 17 ; and for Proceedings in Council, see *ibid.*, 1914, Pt. VI, pp. 64, 159, 189 and 496.

The Act was extended to British Baluchistan under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), see Gazette of India, 1915, Pt. II, p. 424.

The Act has been amended in its application to the C. P. by the Local Authorities Loan (C. P. Amendment) Act, 1922 (C. P. 1 of 1922).

² Ins. by the A. O.

- (xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon ;
- (xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan ;
- (xiii) the attachment of such funds, and the manner of disposing of or collecting them ;
- (xiv) the accounts to be kept in respect of loans ;
- (xv) the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority is legally authorized to carry out ; and the sanction necessary to such utilization ;

and as to all other matters incidental to carrying this Act into effect.

* * * * *

(3) All rules made under this Act shall be published * * * in the [Official Gazette], and on such publication, shall have effect as if enacted in this Act.

5. If any money borrowed in accordance with the provisions of this Act or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the [appropriate Government], if itself the lender, may, and, if the [appropriate Government] is not the lender, shall, on the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in his behalf by the [appropriate Government], shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings :

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

6. (1) Subject to the provisions of section 26 of the Indian Paper Currency Act, 1910,¹ the local authorities mentioned in Schedule I and any other local authority to which the [appropriate Government] may, by notification in the [Official Gazette], extend the provisions of this section, may, with the previous sanction of the [appropriate Government], borrow money

¹ Sub-section (2) was rep. by the Devolution Act, 1929 (35 of 1929), s. 2 and Sch. I.

² Certain words were rep. 1912.

³ Subs. by the A. O. for "local Official Gazette".

⁴ Subs. by the A. O. for "L. G."

⁵ Rep. by the Indian Paper Currency Act, 1923 (16 of 1923), which in turn has been rep. by the Reserve Bank of India Act, 1934 (2 of 1934) : see now s. 31 of the latter Act.

⁶ Subs. by the A. O. for "G. G. in O."

⁷ Subs. by the A. O. for "Gazette of India."

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

(3) ¹The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

Delivery of Books to library.

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depot in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin; and, subject to the provisions of this section, the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto

¹ See footnote to p. 3.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends ; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion : Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion that dominion shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend, the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion ; but save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends :

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression " a dominion to which this Act extends " includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

27. The Legislature of any British possession to which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

(iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order ;

(v) in applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country ;

(vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section 5 of the International Copyright Act, 1886.

49 a.
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(2) An Order in Council under this section may extend to all the several countries named or described therein.

30. (1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possessions specified in the Order with respect to which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like Orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self-governing dominions and the provisions of this Part of this Act shall, with necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any Order any part of his dominions, not being a self-governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such Order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III.

SUPPLEMENTAL PROVISIONS.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

ing, receiving or taking, the same according to the true intent of the provisions hereinbefore contained nor shall the same or any of them be held by any Court of Law or Equity to have vested in any such person as aforesaid for any greater interest or estate than during his life and every attempt to make any assignment or assurance contrary to the intention of this Act shall be and is hereby declared and enacted to be void.

8. If at any time or times hereafter the said Sir Sassoon Jacob David or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act and for that purpose and with that intent shall, at his or her own expense, transfer and deliver to the Corporation any stocks, funds or securities of the nature authorized by section 3 then and as often as the same shall happen the said Corporation shall accept such stocks, funds and securities, and the same shall thenceforth be held by the Corporation upon the same trusts and for the same purpose as are declared by this Act with regard to the Trust Funds referred to in section 3 or upon such of them as shall then be subsisting and capable of taking effect PROVIDED ALWAYS that the total amount of the promissory notes, bonds, stocks, funds, and securities for the time being subject to the trusts of this Act shall at no time exceed Rupees ninety lacs.

9. It shall be lawful for the Corporation out of the money which shall come to their hands by virtue of the trust and provisions of this Act to retain and reimburse themselves all costs, damages and expenses which they shall or may sustain, expend or disburse in or about the execution of the aforesaid powers, trusts and provisions or in relation thereto.

THE DELHI LAWS ACT, 1915.

ACT No. VII OF 1915.¹

[22nd March, 1915.]

An Act to declare the law in force in certain territory added to the Province of Delhi.

WHEREAS by proclamation published in Notification No. 984-C., dated 22nd day of February, 1915, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule I, which was formerly included within the United Provinces of Agra and Oudh, and to include the said territory in the Province of Delhi with effect from the 1st April, 1915 ;

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 19 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, pp. 110 and 310.

(The First Schedule.—Portions of the Copyright Act applicable to British India.)

“Photograph” includes photo-lithograph and any work produced by any process analogous to photography;

“Cinematograph” includes any work produced by any process analogous to cinematography;

“Collective work” means—

(a) an encyclopædia, dictionary, year-book, or similar work,

(b) a newspaper, review, magazine, or similar periodical; and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

“Infringing,” when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation made or imported in contravention of the provisions of this Act;

“Performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

“Delivery,” in relation to a lecture, includes delivery by means of any mechanical instrument;

“Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made;

“Lecture” includes address, speech, and sermon;

“Self-governing dominion” means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order in Council.

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring

ing, receiving or taking, the same according to the true intent of the provisions hereinbefore contained nor shall the same or any of them be held by any Court of Law or Equity to have vested in any such person as aforesaid for any greater interest or estate than during his life and every attempt to make any assignment or assurance contrary to the intention of this Act shall be and is hereby declared and enacted to be void.

8. If at any time or times hereafter the said Sir Sassoon Jacob David or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act and for that purpose and with that intent shall, at his or her own expense, transfer and deliver to the Corporation any stocks, funds or securities of the nature authorized by section 3 then and as often as the same shall happen the said Corporation shall accept such stocks, funds and securities, and the same shall thenceforth be held by the Corporation upon the same trusts and for the same purpose as are declared by this Act with regard to the Trust Funds referred to in section 3 or upon such of them as shall then be subsisting and capable of taking effect PROVIDED ALWAYS that the total amount of the promissory notes, bonds, stocks, funds, and securities for the time being subject to the trusts of this Act shall at no time exceed Rupees ninety lacs.

9. It shall be lawful for the Corporation out of the money which shall come to their hands by virtue of the trust and provisions of this Act to retain and reimburse themselves all costs, damages and expenses which they shall or may sustain, expend or disburse in or about the execution of the aforesaid powers, trusts and provisions or in relation thereto.

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¹ For Statement of Objects and Reasons, see *Gazette of India*, 1915, Pt. V, p. 19 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, pp. 110 and 310.

(*The First Schedule.*—*Portions of the Copyright Act applicable to British India.*)

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings :—

“ Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

“ Performing right,” in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Geo. 2, c. 13 . . .	The Engraving Copyright Act, 1734	The whole Act.
7 Geo. 3, c. 38 . . .	The Engraving Copyright Act, 1767	Ditto.
15 Geo. 3, c. 53 . . .	The Copyright Act, 1775 . . .	Ditto.
17 Geo. 3, c. 57 . . .	The Prints Copyright Act, 1777 . . .	Ditto.
51 Geo. 3, c. 56 . . .	The Sculpture Copyright Act, 1814	Ditto.
3 & 4 Will. 4, c. 15 . . .	The Dramatic Copyright Act, 1833 . . .	Ditto.
5 & 6 Will. 4, c. 65 . . .	The Lectures Copyright Act, 1835 . . .	Ditto.
6 & 7 Will. 4, c. 59 . . .	The Prints and Engravings Copyright (Ireland) Act, 1836.	Ditto.
6 & 7 Will. 4, c. 110 . . .	The Copyright Act, 1836 . . .	Ditto.
5 & 6 Viet., c. 45 . . .	The Copyright Act, 1842 . . .	Ditto.
7 & 8 Viet., c. 12 . . .	The International Copyright Act, 1844.	Ditto.
10 & 11 Viet., c. 95 . . .	The Colonial Copyright Act, 1847 . . .	Ditto.
15 & 16 Viet., c. 12 . . .	The International Copyright Act, 1852.	Ditto.
25 & 26 Viet., c. 68 . . .	The Fine Arts Copyright Act, 1862	Sections 1 to 6. In section 8 the words “ and pursuant to any Act for the protection of copyright engravings”, and “ and in any such Act as aforesaid.” Sections 9 to 12.

7. [*Amendment of section 7 of Act XIII of 1912.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

8. This Act shall be construed with, and deemed to be part of, the Delhi Laws Act, 1912.

SCHEDULE I.

TERRITORY ADDED TO THE PROVINCE OF DELHI.

(See section 2.)

Revenue estates of—

1. Subehpur.
2. Jagatpur.
3. Baqiabad.
4. Beharipur.
5. Saadatpur Mahal Gujran.
6. Saadatpur Musalmanan.
7. Saadatpur Amad Delhi.
8. Wazirabad.
9. Khajuari Paramad.
10. Khajuri Khas.
11. Garhi Mendu.
12. Timarpur.
13. Chandrawal.
14. Usmanpur.
15. Ghonda patti Gujran Khadar.
16. Ghonda patti Chauhan Khadar.
17. Andhavli.
18. Kaithwara.
19. Silampur Amad Delhi.
20. Ghondli Khadar.
21. Jatwara Khurd.
22. Mubarakpur Reti.
23. Shakarpur Khadar.
24. Nagla Manchi.
25. Shamspur.
26. Gharaunda Nimka Khadar.
27. Nagli Razapur.
28. Chilla Sarauda Khadar.
29. Qarawalnagar *urf* Dharauti Kalan.
30. Jivanipur Johripur.
31. Mustafabad.
32. Mirpur Turk.
33. Ziauddinpur.
34. Khanpur Dhani.
35. Maujpur.
36. Ghonda patti Gujran Bangar.

SECTIONS.

4. Duty to stop vehicle for regulating traffic and in case of accident.
5. Reckless driving.

PART III.

LICENSING AND CONTROL.

6. Licensing of drivers.
7. Transfer of licence.
8. Production of licence.
9. Extent of validity of licence to drive.
10. Registration of motor vehicles.
11. Power of Provincial Government to make rules.
12. Posting of notices.
13. Power to Provincial Government to exclude areas or motor vehicles from this Part.

PART IV.

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING BRITISH INDIA.

14. Power of Central Government to make rules.
15. Saying.

PART V.

MISCELLANEOUS.

16. Penalties.
17. Cognizance of offences.
18. Cancellation and suspension of licence and disqualification for obtaining licence.
19. [*Repealed.*]

SCHEDULE.—[*Repealed.*]

ACT No. VIII OF 1914.¹

[28th February, 1914.]

An Act to consolidate and amend the law relating to motor vehicles in British India.

WHEREAS it is expedient to consolidate and amend the law relating to motor vehicles in British India ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Indian Motor Vehicles Act, 1914.

¹ For Statement of Objects and Reasons, see Gazette of India, 1913, Pt. V, p. 186 ; for Report of Select Committee, see *ibid.*, 1914, Pt. V, p. 59 ; and for Proceedings in Council, see *ibid.*, 1913, Pt. VI, p. 566, and *ibid.*, 1914, Pt. VI, pp. 64, 325 and 496.

This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

It has been amended in its application to Bombay by the Indian Motor Vehicles (Bombay Amendment) Act, 1931 (Bom. 7 of 1931) and the Indian Motor Vehicles (Bombay Amendment) Act, 1935 (Bom. 14 of 1935) ; to U. P., by the Indian Motor Vehicles (U. P. Amendment) Act, 1935 (U. P. 6 of 1935).

SCHEDULE II—*contd.*

Year.	Number.	Short title.	Remarks.
1	2	3	4
<i>Punjab Acts.</i>			
1900	II	The Punjab Land Preservation (<i>Chosh</i>) Act, 1900.	....
1912	V	The Colonization of Government Lands (Punjab) Act, 1912.	....
1913	I	The Punjab Pre-emption Act, 1913 . . .	....
"	II	The Redemption of Mortgages (Punjab) Act, 1913.	....

SCHEDULE III.

ENACTMENTS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH WHICH WILL CONTINUE TO BE IN FORCE IN THE TERRITORY ADDED TO THE DELHI PROVINCE.

(See section 3.)

Year.	Number.	Short title.	Remarks.
1	2	3	4
<i>Acts of the Governor General of India in Council.</i>			
1882	IV	The Transfer of Property Act, 1882 . . .	....
"	V	The Indian Easements Act, 1882 . . .	....
1891	VIII	An Act to extend the Indian Easements Act, 1882, to certain areas in which that Act is not in force.	....
<i>United Provinces Acts.</i>			
1901	II	The Agra Tenancy Act, 1901 . . .	....
"	III	The United Provinces Land Revenue Act, 1901.	....
1904	I	The United Provinces General Clauses Act, 1904.	In so far as it applies to the Agra Tenancy Act, 1901, and the United Provinces Land Revenue Act, 1901.

(Part II.—Provisions of General Application. Part III.—Licensing and Control.)

(b) when required to do so by any person having charge of any animal if such person apprehends that the animal is, or will be, alarmed by the motor vehicle, or

(c) when he knows or has reason to believe that an accident has occurred to any person or to any animal or vehicle in charge of a person owing to the presence of the motor vehicle, and he shall also, if so required, give his name and address and the name and address of the owner of such motor vehicle.

5. Whoever drives a motor vehicle in a public place recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the place, and the amount of traffic which actually is at the time or which might reasonably be expected to be, in the place, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

PART III.

LICENSING AND CONTROL.

6. No person shall drive a motor vehicle in a public place unless he is licensed in the prescribed manner, and no owner or person in charge of a motor vehicle shall allow any person who is not so licensed, to drive it :

Provided that, subject to rules made by the ¹[Provincial Government] in this behalf, this section shall not apply to a person receiving instruction in driving a motor vehicle.

7. The holder of a licence shall not allow it to be used by any other person.

8. The driver of a motor vehicle shall produce his licence upon demand by any police-officer.

9. Every licence to drive a motor vehicle shall be valid in such area as may be specified therein :

Provided that no licensee shall specify any area outside the Province in which it is granted, unless it is issued ²* * * in accordance with such conditions and restrictions as ³[the Provincial Government of that area] may impose.

10. (1) The owner of every motor vehicle shall cause it to be registered in the prescribed manner.

(2) Such registration shall be valid in such area as may be specified in the certificate of registration :

¹ Subs. by the A. O. for " L. G."

² The words " by such authority and " rep. by the Second Repealing and Amending Act, 1914 (17 of 1914), s. 3 and Sch. II.

³ Subs. by the A. O. for " the G. G. in C."

SECTIONS.

21. Power to augment the funds and securities subject to the Settlement, provided that total amount of funds subject to the Settlement shall not exceed fifty lakhs.
22. Provision as to insurance of Mazagon Castle, and other houses or buildings purchased in lieu thereof.
23. Directions for keeping Mazagon Castle, and other houses or buildings purchased in lieu thereof, in repair.
24. Power to Trustees to sell lands subject to Settlement.
25. Directions as to how sale may be made.
26. Direction as to investment of proceeds of sale of lands.
27. Declaration of Trusts as to investments of proceeds of sale of lands.
28. Power to Baronet for the time being to enter into arrangement with Government as to land-revenue payable in respect of land purchased under section 8.
29. Indemnity of Trustees.
30. General saving clause.

— — — — —

ACT NO. X OF 1915.¹

[8th September, 1915.]

An Act for repealing Act No. XX of 1860 entitled " An Act for settling Promissory Notes of the Government of India, producing an annual income of one lakh of rupees and a Mansion House and hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet, lately conferred on him and the heirs male of his body, by Her present Majesty Queen Victoria, and for other purposes connected therewith," and for resettling the said Promissory Notes, Mansion House and hereditaments and for other purposes connected therewith.

WHEREAS by Letters Patent of Her late Majesty Queen Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, dated at Westminster on or about the 6th day of August in the 21st year of Her said late Majesty's reign, and by Warrant under Her said late Majesty's sign-manual. Her said late Majesty made known that she, of her special grace, certain knowledge and mere motion had erected, appointed and created Sir Jamsetjee Jejeebhoy, then of Bombay, Knight, but then deceased (a man eminent for family inheritance, estate and integrity of manner), to and into the dignity, state, and degree of a Baronet, and him, the said Sir Jamsetjee Jejeebhoy for Her said late Majesty, her heirs, and successors, she did erect, appoint, constitute and create a Baronet, by the said

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 13; and for Proceedings in Council see *ibid.*, Pt. VI, pp. 15 and 440.

(Part III.—*Licensing and Control.* Part IV.—*Motor Vehicles temporarily leaving or visiting British India.*)

- (f) prescribing the precautions to be observed when motor vehicles are standing in any public place ;
- (g) limiting the speed at which motor vehicles may be driven generally or in any particular public place ;
- (h) prohibiting or regulating the driving of motor vehicles in public places, where their use may, in the opinion of the ¹[Provincial Government], be attended with danger or inconvenience to the public ; and
- (i) providing generally for the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property, or of obstruction to traffic.

(3) All rules made under this section shall be published in the ²[Official Gazette] ; and, on such publication, shall have effect as if enacted in this Act.

12. The prescribed authority shall give, in the prescribed manner, public notice of any rule, made by the ¹[Provincial Government] under section 11, prohibiting or regulating the driving of motor vehicles in any public place ; or limiting the speed of motor vehicles in any such place ; and for the purpose of giving effect to any such rule, shall display conspicuous notices at or near the place to which the rule refers.

13. The ¹[Provincial Government] may, by notification in the ²[Official Gazette], exclude any area specified in such notification from the operation of this Part ; and may, by a like notification, exempt either generally or for a specified period any motor vehicle or class of motor vehicles from the operation of all or any of the provisions of this Part.

PART IV.

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING BRITISH INDIA.

14. (1) The ³[Central Government] may ⁴[for the purpose of implementing any international Convention relating to motor traffic] make ⁵rules for all or any of the following purposes, namely :—

- (i) for the grant and authentication of any travelling passes, certificates or authorities for the use of persons temporarily taking

¹ Subs. by the A. O. for " L. G. "

² Subs. by the A. O. for " local Official Gazette ".

³ Subs. by the A. O. for " G. G. in C. "

⁴ Ins. by the A. O.

⁵ For such rules, see the Motor Vehicles International Circulation Rules, published with Home Dept. Notification No. F.-438/32, dated 1st August, 1933.

AND WHEREAS all the possible Beneficiaries of the Trust under the said Act now living have agreed to the above proposals, with the exception of those relating to the sale of the said Mansion House and hereditaments :

AND WHEREAS all the possible Beneficiaries of the Trust under the said Act, with the exception of two possible Beneficiaries, have agreed to the said proposals relating to the sale of the said Mansion House :

AND WHEREAS the objections advanced by and on behalf of the said two possible Beneficiaries have been duly considered by the Governor General in Council and have been overruled :

AND WHEREAS it is deemed expedient to confer the said powers, and, for that purpose and for other divers good reasons, it is expedient to repeal the said Act XX of 1860, and to substitute the following Act in lieu thereof :

It is hereby enacted as follows :—

1. (1) This Act may be called “The Sir Jamsetjee Jejeebhoy Baronetcy Act, 1915,” and

(2) It shall come into force at once.

2. The said Act No. XX of 1860 is hereby repealed, and the said Promissory Notes of the [Central Government], of the nominal value of rupees twenty-two lakhs, fifty-four thousand and four hundred, shall henceforth cease to be vested in the Corporation created and constituted by the said Act No. XX of 1860, and the Mansion House and other hereditaments, called Mazagon Castle, situate in the Island of Bombay, with their rights, members and appurtenances, of which the said First Baronet was seized to him and his heirs, shall, by force of this Act, from and immediately after the passing of this Act, either as to the whole or, as the case may be, as to such parts thereof as shall not have been sold, transferred, and conveyed under the powers conferred by section 10, stand limited, until such time as the same shall have been sold, transferred, and conveyed under the powers conferred by the said section 10, to the uses following (that is to say) : to the use of the present, that is to say, the Fifth Baronet, for and during the term of his natural life, and from and immediately after his decease, to the use of the heirs male of the body of Sir Jamsetjee Jejeebhoy, First Baronet, who may succeed to the title of Baronet conferred by the said Letters Patent as aforesaid, but as to each one of the said heirs male to the use of such heir male during the term of his natural life only, and, upon failure and default of heirs male of the body of the said Sir Jamsetjee Jejeebhoy, First Baronet, to whom the said title and dignity of Baronet may descend as aforesaid to the use of the heirs, and assigns for ever of the said Sir Jamsetjee Jejeebhoy, the Second Baronet, which ultimate remainder or reversion it shall be lawful for the heirs and assigns of the said Second Baronet, at any time or times during the continuance of the said title and dignity of Baronet and until there shall be such a failure of heirs male of the body of the said First Baronet as aforesaid, to grant, convey, devise and dispose of by Deed or Will or by any other

Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force.

¹[Provided further that, in the case of loans other than loans made by the ²[appropriate Government], no amount exceeding twenty-five lakhs of rupees shall be borrowed unless the terms, including the date of flotation, of such loan have been approved by the ³[appropriate Government].]

(2) Nothing in this section shall be deemed to authorize any local authority—

(a) to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds, or

(b) to borrow money by means of the issue of bills or promissory notes payable within any period not exceeding twelve months.

4. (1) The ⁴[appropriate Government] may make ⁵rules consistent with this Act as to—

(i) the nature of the funds on the security of which money may be borrowed ;

(ii) the works for which money may be borrowed ;

(iii) the manner of making applications for permission to borrow money ;

(iv) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries ;

(v) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published ;

(vi) the cases in which the ²[appropriate Government] may make loans ⁶* * * ;

⁷[(vii) the cases in which local authorities may take loans from persons other than the ²[appropriate Government] ;]

(viii) the manner of recording and enforcing the conditions on which money is to be borrowed ;

(ix) the manner and time of making or raising loans ;

(x) the inspection of any works carried out by means of loans ;

¹ This proviso was ins. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

² Subs. by the A. O. for " L. G. "

³ Subs. by the A. O. for " G. G. in C. "

⁴ Subs. by the A. O. for the words " L. G. " which were subs. by Act 38 of 1920, s. 2 and Sch. I, for " G. G. in C. "

⁵ For rules applying to all local authorities in Chief Commissioners' Provinces and to Cantonment authorities and port authorities of major ports in Governors' Provinces, see the local Authorities Loans (Central) Rules, 1937 (published in Gazette of India, 1937, Pt. I, p. 1902); and for rules applying to other local authorities in Governors' Provinces, see the Local Authorities Loans Rules, 1915 (Gen. R. and O., Vol. IV, p. 504).

⁶ Certain words were rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

⁷ Subs. by s. 2 and Sch. I., *ibid.*, for the original clause.

Provided that the total sum raised by the Corporation under the power conferred upon them by this section for the sale of the said securities above-mentioned shall not exceed two lakhs and twenty-five thousand rupees.

10. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent, shall have power, with the written consent and approval of the Corporation, to sell, transfer, and convey freed and discharged from all uses and trusts created by this Act, the said Mansion House and other hereditaments, called Mazagon Castle, situate in the Island of Bombay, with their rights, members and appurtenances, and either in one parcel or in several parcels, and either at one time or from time to time, upon condition that the proceeds of sale thereof shall be paid by the purchaser thereof direct to the Corporation.

11. The person for the time being entitled to, and in the enjoyment of, the title of Baronet, conferred by the said Letters Patent may, from time to time, request the Corporation, in writing, to pay, out of the proceeds of sale of the said Mansion House and other hereditaments, called Mazagon Castle, if and when sold, the purchase money of any land which may be purchased by the person for the time being entitled to, and in the enjoyment of, the said title of Baronet, under the powers conferred by section 8 ; and all costs, charges, and expenses of, and incidental to the purchase and acquisition of the same, and of the conveyance, and assurance of the same to the Corporation, and also to pay all costs and expenses of, and incidental to the erection thereon of, a Mansion House, with the necessary or suitable accessory buildings, and to pay the purchase money of any land, with a house, or other building, standing thereon, which may be purchased by the person for the time being entitled to, and in the enjoyment of, the said title of Baronet, under the powers conferred by this Act, and all costs, charges and expenses of, and incidental to, the purchase and acquisition of the same, and of the conveyance, and assurance of the same to the Corporation, and also to pay all costs, and expenses of, and incidental to the pulling down of the said buildings, or any of them and of erecting a Mansion House, with the necessary or suitable accessory buildings, in lieu thereof, or of altering, and adding to, such buildings, for the purpose of converting the same into a Mansion House, with the necessary or suitable accessory buildings, as the case may be, and the Corporation shall, upon such request being made as aforesaid, make such payments out of the proceeds of sale of the said Mansion House and other hereditaments called Mazagon Castle :

Provided that the total sum expended by the Corporation, under the powers conferred by this section, out of the proceeds of sale of the said Mansion House and other hereditaments, called Mazagon Castle, shall not exceed the sum of two lakhs and seventy-five thousand rupees.

12. All lands and buildings which may be purchased by the person for the time being entitled to, and in the enjoyment of, the title of Baronet under the said Letters Patent under the powers conferred by section 8, with their rights, members, and appurtenances shall be conveyed to the Corporation, and the Corporation shall hold the same, and also all buildings which may

by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force :

Provided that the amount of the bills or promissory notes which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow.

(2) The ¹[appropriate Government] may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Except as provided by or under this Act, no local authority shall, for any purpose, borrow money upon, or otherwise charge its funds ; and any contract otherwise made for that purpose after the passing of this Act shall be void :

Provided that nothing herein contained shall be deemed—

(a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force ; or

(b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

²[8. The remedy mentioned in section 5 shall be available for the recovery of any money lent by the Secretary of State in Council to any local authority before the fifth day of September, eighteen hundred and seventy-one, and the interest due on such money.]

9. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

SCHEDULE I.

(See section 6.)

The Corporation of Calcutta.

The Commissioners for the Port of Calcutta.

The Commissioners for the Port of Chittagong.

The Municipal Corporation of the City of Bombay.

The Trustees of the Port of Bombay.

The Corporation of Madras.

The Trustees for the Port of Madras.

3* * * * *

¹ Subs. by the A. O. for " G. G. in C."

² Subs. by the A. O. for the original section.

³ The entries relating to the Municipal Committee of Rangoon and the Commissioners for the Port of Rangoon, rep. by the A. O.

and premises in and upon some one or more of the investments authorised by this Act for the investment of the said Trust Funds ; and shall, upon such Baronet attaining his majority, pay over, transfer, and assign to him, or as he shall direct and for his own absolute benefit, the said investments and all accumulations thereof.

16. Provided always that in case any person who, for the time being shall be the heir male of the body of the said First Baronet to whom the said title of Baronet shall have descended, shall for the space of one whole year after he shall, by virtue of this Act, become entitled to the dividends, interest, and income of the said stocks, funds, and securities or to the possession or receipts of the rents and profits of the said hereditaments ; or, being then under age, shall for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of " Jamsetjee Jejeebhoy " as hereinbefore enacted ; or in case any such person having so used those names, shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest of the person who shall so refuse or neglect to use, or, having used, shall so discontinue to use, the said names of " Jamsetjee Jejeebhoy " shall, during the remainder of his respective natural life, be suspended ; and that during any and every such suspension, the dividends, interest, and income of the said stocks, funds and securities, and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who as heir male of the body of the First Baronet, would have succeeded to, and been in the enjoyment of, the title of Baronet conferred by the said Letters Patent, in case the persons so refusing or neglecting to use, or discontinuing to use, the said names of " Jamsetjee Jejeebhoy " had departed this life ; but if there should be no such heir male, then to the person or persons who would be entitled to the same in case there had then been a total failure of issue male of the First Baronet entitled to the said dignity of Baronet.

17. It shall be lawful for Sir Jamsetjee Jejeebhoy, Fifth Baronet, and for any person upon whom the said title of Baronet shall, from time to time, descend when in the actual enjoyment of the said title, and who shall not refuse, neglect, or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of " Jamsetjee Jejeebhoy " as hereinbefore enacted, either before or after his marriage with any woman or women by any Deed or Deeds, writing or writings, with or without power of revocation, to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to any annuity or annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power), to limit and appoint unto any woman or women whom he shall marry, for her or their life or lives, and for her or their jointure or jointures, in bar of dower or other legal or customary rights, any annuity or yearly sum not exceeding the sum of rupees ten thousand, clear of all taxes, charges and deductions whatsoever, to commence and take effect immediately after the decease of the person

Sir Sassoon Jacob David during his lifetime and every succeeding Baronet being a major shall be trustees of the aforesaid securities, and be likewise the trustees for carrying into execution the general purposes and powers of this Act, in relation to the said securities.

And whereas it is expedient that the aforesaid purposes should be effected by an Act of the Council of the Governor General for making laws and regulations.

It is hereby enacted as follows :—

1. This Act may be called “ The Sir Sassoon Jacob David Baronetcy Act, 1915 ”.

2. Douglas Dewar, Esquire, the Accountant-General of Bombay, the Honourable Mr. George Carmichael, the Chief Secretary to the Government of Bombay, and Arthur Henry Addenbrooke Simcox, Esquire, the Collector of Bombay, and their successors, the Accountant-General of Bombay, the Chief Secretary to the Government of Bombay, and the Collector of Bombay, all for the time being, and the said Sir Sassoon Jacob David, Baronet, and after his death the person for the time being holding the said Baronetcy being a major, shall be and they are hereby created a Corporation with perpetual succession and a common seal under the style and title of the “ Trustees of the Sir Sassoon Jacob David Baronetcy ” and the said Douglas Dewar, Esquire, the Honourable Mr. George Carmichael and Arthur Henry Addenbrooke Simcox, Esquire, and their respective successors in office and the said Sir Sassoon Jacob David, Baronet, and after his death the person for the time being holding the Baronetcy being a major (hereinafter styled “ the Corporation ”) shall be and they are hereby constituted as such Corporation, the Trustees for executing the powers and purposes of this Act.

3. Immediately from and after the passing of this Act the said securities being debentures of the Municipal Corporation of the City of Bombay of the nominal value of Rupees Fourteen Lacs bearing interest at the rate of four per cent. per annum and bonds of the Trustees for the Improvement of the City of Bombay of the nominal value of Rupees Sixteen Lacs bearing interest at the rate of four per cent. per annum, such debentures and bonds being of the aggregate nominal value of Rupees Thirty Lacs and producing an annual income of about Rupees One Lac and Twenty Thousand, shall be assigned and transferred into the name of the Corporation, who shall hold the same upon the trust and for the purposes hereinafter expressed concerning the same (that is to say), upon trust to continue to hold the said securities until such time as the same shall be discharged by the Municipal Corporation of the City of Bombay or the Trustees for the Improvement of the City of Bombay, as the case may be, or shall be sold by the Corporation at the request in writing of the person who shall for the time being be in the enjoyment of the income of the said securities, and on such discharge or sale to invest the sum to be received on such occasion with all convenient despatch in or upon any stocks, funds or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great

or customary rights an annuity or yearly sum not exceeding the sum of Rupees fifteen thousand clear of all taxes, charges and deductions whatsoever to commence and take effect immediately after the decease of the person appointing the same and to the issuing and payable out of the dividends, interest and annual income of the Trust Funds and to be paid and payable in equal half-yearly payments, the first of the said half-yearly payments to be made at the expiration of six calendar months after the decease of the person who shall have appointed such annuity or yearly income. Provided that the payment of the said annuity to the widow of the person appointing the same shall be subject to the obligation on her part of maintaining and educating each and every minor child (except the Baronet for the time being) of such person during their respective minorities. After the death or remarriage of the said widow the said annuity shall be paid to the Baronet for the time being to be held by him (or if the Baronet for the time being shall be a minor by the Corporation) upon trust to maintain and educate each and every such child during their respective minorities and shall continue to be so held in trust until the youngest child shall attain majority. Provided further that notwithstanding any such appointment as aforesaid no widow of a Baronet shall become entitled to the sum so appointed if she shall also become entitled to the income of the one-eighth part of the Trust Funds on the failure of the male issue of the said Sir Sassoon Jacob David as provided in section 3.

of 6. Provided always that the said interest, dividends and annual income of the Trust Funds shall not at one and the same time be subject to the payment of more than the yearly sum of Rupees thirty thousand for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of or under the same power in said interest, dividends and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of Rupees thirty thousand the yearly sum which shall occasion such excess or such part thereof as shall occasion the same shall during the time of such excess abate and not be payable.

7. Neither the said Sir Sassoon Jacob David nor any of the heirs male of his body in whose favour (subject to the two last preceding sections) the trusts are hereinbefore declared of the said interest, dividends and annual income of the Trust Funds, shall transfer, dispose of, charge or encumber the Trust Funds or any part thereof or the interest, dividends and annual income thereof or any part thereof for any greater or larger estate, interest or time, than during his natural life, nor shall any such person as aforesaid either alone or jointly with any other or others of them or with any other person or persons, whomsoever have any power to discontinue or bar any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the said interests, dividends and annual income of the Trust Funds or to prevent any such person or persons from succeeding to, holding or enjoy-

for other lands or hereditaments in the Island of Bombay any lands or hereditaments which are subject to the trusts of the Settlement effected by this Act or any part thereof, and upon any such exchange, to give or receive any money for equality of exchange :

Provided that the Corporation shall not sell the Mansion House, if any, or the buildings accessory thereto, which may be purchased, or erected under the powers conferred by this Act, without having first consulted all persons who may be interested in the said Mansion House, either by way of reversion, or otherwise, and who may have attained their respective ages of majority :

Provided further that the foregoing proviso shall apply to the said Mansion House, and the buildings accessory thereto only, and shall not apply to any lands, hereditaments, or premises, other than the land upon which the said Mansion House and the buildings accessory thereto, may stand, or be erected, which may be purchased under the powers conferred by this Act,

25. Any sale which may be effected under the powers conferred by section 24 may be made either by public auction or private contract, and the Corporation may make any stipulations as to title, or evidence, or commencement of title, or otherwise, in any conditions of sale or contract for sale or exchange, of the said hereditaments or any part thereof, and may buy in, or rescind, or vary any contract for sale or exchange, and re-sell, or re-exchange, without being responsible for any loss occasioned thereby.

26. The Corporation shall, with all convenient speed, invest all moneys which may be received by them upon any sale or exchange which shall be effected by them under the powers conferred by section 24, either in the purchase of any one or more of the securities specified in section 6, or in the purchase of other lands and hereditaments in the Island of Bombay suitable for the support of the dignity of the said title ; provided that every such purchase of lands or hereditaments be made with the consent in writing of the person for the time being entitled to, and in the enjoyment of, the said title conferred by the said Letters Patent.

27. The Corporation shall hold all stocks, funds, and securities which may be purchased by them in pursuance of the directions contained in section 26 upon the same trusts, and to the same ends, intents, and purposes, and with the same powers as are by this Act declared of and concerning the trust funds of the Settlement effected by this Act, and shall hold all lands and hereditaments may be purchased by them in pursuance of the directions contained in section 26 upon the same trusts and to the same ends, intents, and purposes, and with the same powers as are declared by this Act of and concerning all lands and hereditaments which may be purchased under the powers conferred by section 8.

28. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent as aforesaid, shall have power with a view to the more advantageous sale of the land occupied by the said Mansion House and other hereditaments, called Mazagon Castle, in pursuance of the powers in that behalf conferred by section 10, and,

Limitation
of amount of
interest.

in section 3.

6. Provided always that the said interest, dividends and annual income of the Trust Funds shall not at one and the same time be subject to the payment of more than the yearly sum of Rupees thirty thousand for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of or under the same power in said interest, dividends and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of Rupees thirty thousand the yearly sum which shall occasion such excess or such part thereof as shall occasion the same shall during the time of such excess abate and not be payable.

Limitation
of interest
to life of
trustees.

7. Neither the said Sir Sassoon Jacob David nor any of the heirs male of his body in whose favour (subject to the two last preceding sections) the trusts are hereinbefore declared of the said interest, dividends and annual income of the Trust Funds, shall transfer, dispose of, charge or encumber the Trust Funds or any part thereof for any greater or larger estate, interest income thereof or any part thereof for any person as aforesaid or time, than during his natural life, nor shall any such person as aforesaid either alone or jointly with any other or others of them or with any other person or persons, whomsoever have any power to discontinue or bar any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the said interests, dividends and annual income of the Trust Funds or to prevent any such person or persons from succeeding to, holding or enjoying

THE NORTH-WEST FRONTIER CONSTABULARY ACT, 1915.

CONTENTS.

SECTIONS.

1. Short title, extent, application and commencement.
2. Definitions.
3. Power to maintain Frontier Constabulary.
4. Constitution of Constabulary.
5. Appointment and powers of superior officers.
6. Appointment of subordinate officers and men.
7. Superintendence, control and administration of Constabulary.
8. More heinous offences.
9. Less heinous offences.
10. Minor punishments.
11. Place of imprisonment, and liability to dismissal on imprisonment.
12. Deduction from pay and allowances.
13. Collective fines.
14. Resignation and withdrawal from the Constabulary.
15. General duties of members of the Constabulary.
16. Powers and duties conferable and imposable on members of the Constabulary.
17. Protection for acts of members of the Constabulary.
18. Authority to confer exclusive powers of Sessions Court on Deputy Commissioner.
19. Criminal powers conferred within British India to be exercisable beyond British India.
20. Application of Act to other bodies enrolled for service on Frontier.
21. Power to make rules.
22. [*Repealed.*]

THE SCHEDULE.—CONDITIONS OF SERVICE.

ACT No. XIII OF 1915.¹

[1st October, 1915.]

An Act to provide for the regulation of the Frontier Constabulary in the North-West Frontier Province.

WHEREAS it is expedient to provide for the regulation of the Frontier Constabulary in the North-West Frontier Province; It is hereby enacted as follows :—

1. (1) This Act may be called the North-West Frontier Constabulary Act, 1915 ;

¹ For Statement of Objects and Reasons see *Gazette of India* 1915, Pt. V, p. 56 ; for Proceedings in Council, see *ibid* Pt. VI, pp. 439 and 502.

or customary rights an annuity or yearly sum not exceeding the sum of Rupees fifteen thousand clear of all taxes, charges and deductions whatsoever to be received and take effect immediately after the decease of the person appointing the same and to the issuing and payable out of the dividends, interest and annual income of the Trust Funds and to be paid and payable in equal half-yearly payments, the first of the said half-yearly payments to be made at the expiration of six calendar months after the decease of the person who shall have appointed such annuity or yearly income. Provided that the payment of the said annuity to the widow of the person appointing the same shall be subject to the obligation on her part of maintaining and educating each and every minor child (except the Baronet for the time being) of such person during their respective minorities. After the death or remarriage of the said widow the said annuity shall be paid to the Baronet for the time being to be held for him (or if the Baronet for the time being shall be a minor by the Corporation) upon trust to maintain and educate each and every such child during their respective minorities and shall continue to be so held in trust until the younger child shall attain majority. Provided further that notwithstanding any such appointment as aforesaid no widow of a Baronet shall become entitled to the sum so appointed if she shall also be entitled to the income of the one-eighth part of the Trust Funds on the failure of the male issue of the said Sir Sassoon Jacob David as provided

5. (1) The ¹[Central Government] may appoint any person to be Commandant and may appoint other persons to be District Constabulary Officers or Assistant Constabulary Officers of the Frontier Constabulary, or of any part thereof constituted in any one or more districts.

(2) The Commandant and every other officer so appointed shall possess and may exercise, such power and authority over the subordinate officer and members of the Constabulary at any time, under his command as is provided by or under this Act.

6. The appointment of all officers and men of the Frontier Constabulary other than those mentioned in sub-section (1) of section 5, shall rest with the Commandant and the District Constabulary Officer who shall respectively exercise such powers, in such manner as may be prescribed by rules made under this Act.

7. (1) The superintendence of, and control over, the Frontier Constabulary shall vest in the ¹[Central Government]; and the Frontier Constabulary shall be administered by the Commandant and the District Constabulary Officer in accordance with the provisions of this Act and of any rules made thereunder.

(2) The District Constabulary Officer and the Constabulary of a district shall be under the general control and direction of the Deputy Commissioner of the district.

(3) In exercising authority under sub-section (2) the Deputy Commissioner shall be governed by such rules and orders as the ¹[Central Government] may make in this behalf.

8. (1) Every member of the Constabulary who commits any of the following offences, that is to say :—

- (a) begins, excites, causes or conspires to cause or joins in any mutiny or being present at any mutiny, does not use his utmost endeavours to suppress it, or knowing, or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State does not, without delay give information thereof to his commanding or other superior officer ; or,
- (b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer whether on or off duty knowing or having reason to believe him to be such ; or,
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge, or which it is his duty to defend ; or,
- (d) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge ; or,

¹ Subs. by the A. O. for "L. G."

And whereas it is expedient to declare the law in force in the said territory ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Delhi Laws Act, 1915 ;

(2) It shall come into force on the first day of April, 1915.

2. All enactments (except the enactments specified in Schedule II) for the time being in force in the territory specified in Schedule A to the Delhi Laws Act, 1912, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments shall be deemed to be in force in the territory specified in Schedule I in the same manner and subject to the same modifications as they are for the time being in the territory specified in the said Schedule to the said Act.

3. The enactments specified in Schedule III, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under those enactments shall continue to be in force in the territory specified in Schedule I :

Provided that in the enactments so continued and in all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed thereunder, reference to a ¹[Provincial Government], the ²[Provincial Government] of the United Provinces of Agra and Oudh, or the Board of Revenue for the United Provinces shall be read as referring to the ³[Provincial Government] of Delhi ; references to a High Court or the High Court of Judicature of the North-Western Provinces as referring to the ⁴[High Court of Judicature at Lahore], and references to the official gazette for the United Provinces as referring to the ⁵[Official Gazette].

4. For the purpose of facilitating the application to the territory mentioned in Schedule I of the enactments referred to in section 3, the powers conferred by sections 4 and 5 of the Delhi Laws Act, 1912, shall be exercisable XIII in respect thereof.

5. Save as provided in sections 2 and 3 no enactment which is in force in the United Provinces of Agra and Oudh or any part thereof shall continue to be in force in the territory specified in Schedule I.

6. Nothing in this Act shall affect any proceeding which at the commencement thereof is pending in respect of any of the territory mentioned in Schedule I or of anything arising in such territory and every such proceeding shall be continued as if this Act had not been passed :

Provided that the ¹[Provincial Government] may, by notification in the ⁵[Official Gazette], direct that any proceeding, criminal, civil or revenue, other than a proceeding pending before the High Court of Judicature for the North-Western Provinces, shall be transferred to, and disposed of by, the corresponding authority of the Delhi Province.

¹ Subs. by the A. O. for " L. G. "

² Subs. by the A. O. for " Lieutenant Governor ".

³ Subs. by the A. O. for " Chief Commissioner ".

⁴ Subs. by the Repealing and Amending Act, 1919 (18 of 1919), s. 2 and Sch. I, for " Chief Court of the Punjab ".

⁵ Subs. by the A. O. for " Gazette of India ".

- (c) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge, or, without proper authority, releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape ; or,
- (d) being under arrest or in confinement, leaves his arrest or confinement, before he is set at liberty by proper authority ; or,
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office ; or,
- (f) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field ; or,
- (g) strikes or otherwise ill-uses any member of the Constabulary subordinate to him in rank or position ; or,
- (h) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made, as far as possible, to the injured person or to report the case to the proper authority ; or,
- (i) designedly or through neglect injures or loses or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or Frontier Constabulary necessaries, or any such articles entrusted to him or belonging to any other person ; or,
- (j) malingers or feigns or produces disease or infirmity in himself or intentionally delays his cure, or aggravates his disease or infirmity ; or,
- (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or,
- (l) does not, when called upon by his superior officer so to do or upon ceasing to be a member of the Constabulary, forthwith deliver up, or duly account for, all or any arms, ammunition, stores, accoutrements, appointments or other property issued or supplied to him or in his custody or possession, as such member of the Constabulary ; or,
- (m) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to [the Crown] or to any member of, or any person attached to, the Constabulary, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ; or,

37. Ghonda patti Chauhan Bangar
38. Jafrabad.
39. Uldanpur.
40. Babarpur.
41. Sigdarpur.
42. Gokalpur.
43. Sabauli.
44. Mandauli.
45. Taharpur.
46. Jhilmila.
47. Chandavli urf Shadara.
48. Silampur Bangar.
49. Silampur Khadar.
50. Ghondli Bangar.
51. Kakarduman.
52. Khureji Khas.
53. Khureji Baramad.
54. Shakarpur Khas Bangar.
55. Mandavli Fazilpur.
56. Hasanpur Bhuapur.
57. Ghazipur.
58. Khichripur.
59. Gharaunda Nimka Bangar (Patparganj).
60. Shakarpur Baramad.
61. Kotla.
62. Chilla Sarauda Bangar.
63. Dalupura.
64. Kendli.
65. Gharauli.

SCHEDULE II.

ENACTMENTS IN FORCE IN THE DELHI PROVINCE WHICH WILL NOT BE IN FORCE
IN THE TERRITORY ADDED TO THAT PROVINCE.

(See section 2.)

Year.	Number.	Short title.	Remarks.
1	2	3	4
1887	XVI	Acts of the Governor General of India in Council.	....
..	XVII	The Punjab Tenancy Act, 1887	....
**	*	The Punjab Land Revenue Act, 1887	....
		* * * *	

* The entry relating to the Punjab Alienation of Land Act, 1900 (Punjab 13 of 1900) was rep. by the Repealing and Amending Act, 1927 (10 of 1927), s. 3 and Sch. II.

(3) Any one of the punishments described in sub-section (1) or sub-section (2) may be awarded separately, or in combination with any one or more of the said punishments, respectively.

11. (1) Every person sentenced under this Act to imprisonment may be dismissed from the Frontier Constabulary, and shall be further liable to forfeiture of pay and allowances due, as well as of medals and decorations received and the public money due to him.

(2) Every such person shall, if he is so dismissed, be imprisoned in the nearest prison or such other prison as the ¹[Central Government] may, by general or special order, direct; but, if he is not also dismissed from the Frontier Constabulary, he may, if the Court or the Commandant so directs, be confined in the quarter-guard or such other place as the Court or the Commandant may consider suitable.

12. The following penal deductions may be made from the pay and allowances of a member of the Constabulary, that is to say,—

- (a) all pay and allowances for every day of absence either on desertion or without leave, and for every day of imprisonment awarded by a Criminal Court or of confinement awarded by an Officer exercising authority under section 10;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the proper Medical Officer attending on him at the hospital to have been caused by an offence under this Act committed by him;
- (d) all pay and allowances ordered to be forfeited under section 10 and
- (e) any sum required to make good such compensation for any expense caused by him, or for any loss of, or damage or destruction done by him to, any arms, ammunition, equipment, clothing, instruments, Frontier Constabulary necessities or decoration, or to any buildings or property, as may be awarded by the Commandant or the District Constabulary Officer.

13. Whenever any weapon or part of a weapon or ammunition forming part of the equipment of a company or other similar unit is lost or stolen, the Commandant may, after making such inquiry as he thinks fit, impose a collective fine upon the subordinate officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

14. No member of the Constabulary shall be at liberty to—

- (a) resign his appointment during the term of his engagement, except before the expiration of the first three months of his service or,
- (b) withdraw himself from all or any of the duties of his appointment

¹ Subs. by the A. O. for "L. G."

THE SIR JAMSETJEE JEJEEBHROY BARONETCY ACT, 1915.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.—Commencement.
2. Repeal of Act XX of 1860.
3. The Commissioner for the Northern Division, the Accountant-General, and the Collector of Bombay to be a Corporation for execution of the Trusts of this Act.
4. Present Baronet to continue to bear, and all future Baronets to take, names of First Baronet.
5. Government Promissory Notes of a certain nominal value vested in Trustees. On trust to re-invest if paid off ; and to pay income to present Baronet for his life ; and after death of present Baronet to pay income to Baronet for time being ; with ultimate trust for Second Baronet, his executors, administrators and assigns.
6. Powers of investment.
7. Prohibition against varying investments without consent of person entitled to income.
8. Power to Baronet for the time being to purchase land to erect a Mansion House thereon ; and to purchase land with a house thereon, and to pull the house down, and erect another, or to enlarge, alter or add to house thereon.
9. Power to trustees to sell securities to produce funds to pay for land, etc. Proviso that total sum raised shall not exceed Rs. 2,25,000.
10. Power to Baronet for the time being to sell Mazagon Castle.
11. Power to Trustees to apply proceeds of sale of Mazagon Castle, not exceeding Rs. 2,75,000 in paying for land purchased and for erecting Mansion House thereon, etc.
12. Settlement of Mansion House, etc., in support of Baronetcy.
13. Saving of rights of persons interested in reversion or remainder in Mazagon Castle on sale thereof.
14. Declaration of Trusts as to surplus proceeds of sale of Mazagon Castle over and above the sum of Rs. 2,75,000.
15. Power to Trustees to invest the surplus annual interest and income of the Trust Fund and premises during the minority of any Baronet, etc.
16. Provision in case of refusal or discontinuance of names of First Baronet.
17. Baronet in possession may jointure.
18. Limit of aggregate of jointure payable contemporaneously.
19. Mansion House and hereditaments not to be subject to jointure.
20. Alienation prohibited during the Baronetcy.

20. The ¹[Central Government] ² * * * may, by notification in the Official Gazette, apply, ³ with such modifications (if any) as it may think fit, any of the provisions of this Act and the rules thereunder to the Border Militia or to any persons for the time being enrolled for similar service on the external frontier of British India.

21. The ¹[Central Government] may, by notification in the Official Gazette, make rules—

- (a) regulating the functions and powers of the Deputy Commissioner, Commandant, the District Constabulary Officer and the Assistant Constabulary Officer, respectively, under this Act ;
- (b) regulating ⁴ * * * the classes and grades of, and the remuneration to be paid to the officers and men of, and the conditions of service in the Frontier Constabulary ;
- (c) fixing the period of service for members of the Constabulary in any district or local area ;
- (d) regulating the award of minor punishments to Constabulary Officers under the powers conferred by section 10, and providing for appeals from, or the revision of orders under, that section, or the remission of fines imposed under that section, and the remission of deductions made under section 12 ;
- (e) regulating the several or collective liability of members of the Constabulary in the case of the loss or theft of weapons and ammunitions ; and
- (f) generally, for the purpose of carrying into effect the provisions of this Act.

22. [Repeal.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE SCHEDULE.

CONDITIONS OF SERVICE.

[See section 2, clause (a).]

AFTER you have served for such periods as the ¹[Central Government] may have prescribed in this behalf in the Frontier Constabulary maintained under the North-West Frontier Constabulary Act, 1915, you may, at any time, when not on active service, apply for your discharge, through the officer to whom you may be subordinate, to the Commandant, or to the District Constabulary Officer of the district in which you may be serving and you will be granted your discharge after three months from the date of your

¹ Subs. by the A. O. for " L. G. "

² The words " subject to the control of the G. G. in C. " rep. by the A. O.

³ This Act has been applied with modifications to the Frontier Corps, viz., the Kurrum Militia, the Tochi Scouts and the South Waziristan Scouts,—see N.-W. F. P. Chief Commissioner's Notification No. 1085-M., dated the 27th March, 1925.

⁴ The words " subject to the provisions of s. 4 " rep. by the A. O.

Letters Patent, to hold to him and the heirs male of his body lawfully begotten, and to be begotten for ever :

AND WHEREAS in fulfilment of an engagement in that behalf made with Her said late Majesty's Government, during the lifetime of the said Sir Jamsetjee Jejeebhoy, deceased, the said Sir Jamsetjee Jejeebhoy was desirous of settling in perpetuity such property on himself and the heirs male of his body who might succeed to the said Baronetcy, as should be adequate to support the dignity of the title conferred on him and them as aforesaid :

AND WHEREAS the said Sir Jamsetjee Jejeebhoy was seized of a Mansion House and hereditaments situate in the Island of Bombay called Mazagon Castle, and had an absolute estate of inheritance therein, and was desirous, in fulfilment of the aforesaid engagement, of settling Promissory Notes of the Government of India, producing an annual income of one lakh of rupees and the said Mansion House and hereditaments, to the uses upon the trusts, and for the purposes in the said Act No. XX of 1860 limited and declared, concerning the same respectively :

AND WHEREAS the said Sir Jamsetjee Jejeebhoy was also desirous that the heirs male of his body to whom the said title and dignity of Baronet should descend, should take and bear the names of "Jamsetjee Jejeebhoy," in lieu of any other name or names whatever which they respectively might bear at the time of such descent on them respectively ; and he was also desirous that the Revenue Commissioner for the Northern Division of the Presidency of Bombay, the Accountant-General, and the Sub-Treasurer at Bombay, for the time being should be Trustees for the aforesaid Promissory Notes, and be likewise the Trustees for carrying into execution the general purposes and powers of the said Act No. XX of 1860, with relation to the same securities, and also with relation to the same Mansion House and hereditaments :

AND WHEREAS the said Sir Jamsetjee Jejeebhoy departed this life on the 14th day of April, 1859, before the aforesaid engagement with Her said late Majesty's Government was carried out on his part, and by his Will, dated the 9th day of April, 1853, duly signed and executed by him, gave and devised the residue of his estate, houses, lands, securities, moneys and effects, to and amongst his sons Cursetjee Jamsetjee, Rustomjee Jamsetjee, and Sorabjee Jamsetjee, and appointed his wife Avaboye and his said three sons, the executrix and executors of his said Will ; and the said Will was duly proved by the said Cursetjee Jamsetjee, Rustomjee Jamsetjee and Sorabjee Jamsetjee alone :

AND WHEREAS on the death of the said Sir Jamsetjee Jejeebhoy, the said title or dignity of Baronet, created by Her Majesty's said Letters Patent, devolved on and became and was at the date of the passing of the said Act No. XX of 1860 vested in the said Cursetjee Jamsetjee, as the eldest son and heir male of the body of the said Sir Jamsetjee Jejeebhoy, deceased :

AND WHEREAS the said Cursetjee Jamsetjee, the Second Baronet, Rustomjee Jamsetjee, and Sorabjee Jamsetjee, as the sons, residuary legatees and Executors of the said Sir Jamsetjee Jejeebhoy, First Baronet, deceased, and the

SECTIONS.

13. Audit of accounts.
14. Permanent reserve to cover recurring charges.
15. Maintenance and admission to privileges of colleges.
16. Recognition of degrees.
- 16-A. Pension or Provident Fund.
17. Statutes.
18. Regulations.
19. Emergency powers of the Central Government.

SCHEDULE I.

FIRST STATUTES OF THE UNIVERSITY.

1. Definitions.
2. Membership of the University.
3. Patrons and Vice-Patrons.
4. The Chancellor.
5. Powers of the Chancellor.
6. The Pro-Chancellor.
7. Powers of the Pro-Chancellor.
8. The Vice-Chancellor.
9. Powers of the Vice-Chancellor.
10. The Pro-Vice-Chancellor.
11. Powers of the Pro-Vice-Chancellor.
12. The Registrar.
13. The Treasurer.
14. The Court.
15. Exercise of control by the Court.
16. Meetings of the Court.
17. The Council.
18. Powers of the Council.
19. The Senate.
20. Powers of the Senate.
21. The Syndicate.
22. Duties of the Syndicate.
23. The Faculties.
24. Powers of Faculties.
25. Convocations.
26. Committees.
27. Board of Appointments.
28. Acts during vacancies.
29. Elected chairman to preside where no provision made by the Statute.
30. Re-appointment and re-election.
31. Resignation.
32. Removal.

instruction in Hindu theology and religion, and of promoting the study of literature, art, philosophy, history, medicine and science, and of imparting physical and moral training.

4. (1) The University shall, subject to the Regulations, be open to persons of all classes, castes and creeds, but provision shall be made for religious instruction and examination in Hindu religion only.

(2) The Court shall have power to make Statutes providing that instruction in Hindu religion shall be compulsory in the case of Hindu students, and shall also have power to make special arrangements for the religious instruction of Jain or Sikh students from funds provided for this purpose.

5. The Governor-General of India for the time being shall be the Lord Rector of the University ; and such persons, as may be specified in the Statutes shall be the Patrons and Vice-Patrons thereof.

¹[(2) In the discharge of his functions as Lord Rector, the Governor-General shall exercise his individual judgment.]

6. ²[(³) The Governor-General, exercising his individual judgment, shall nominate³ such person as he thinks fit to be the Visitor of the University.]

(2) The Visitor shall have the right of inspecting the University and its Colleges generally, and for the purpose of seeing that the proceedings of the University are in conformity with this Act and the Statutes and Regulations. The Visitor may, by order in writing, annul any such proceedings which are not in conformity with this Act and the Statutes and Regulations :

Provided that, before making any such order, he shall call upon the University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, shall consider the same.

7. The following shall be the authorities and officers of the University :—

- I.—The Chancellor,
- II.—⁴[The Pro-Chancellors, of whom there shall be two,]
- III.—The Vice-Chancellor,
- IV.—The Pro-Vice-Chancellor,
- V.—The Court,
- VI.—The Council,
- VII.—The Senate,
- VIII.—The Syndicate,
- ⁵[VIII-A.—The Standing Finance Committee,]
- IX.—The Faculties and their Deans,
- X.—The Registrar,
- XI.—The Treasurer, and
- XII.—Such other authorities and officers as may be provided for by the Statutes.

¹ Ins. by the A. O.

² Subs. by the A. O. for the original sub-section.

³ For notification nominating the Governor of the U. P. to be the Visitor of the University, see Gazette of India, 1937, Pt. I, p. 1446.

⁴ Subs. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 2, for "The Pro-Chancellor".

⁵ Ins. *ibid.*

assurance or assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of.

3. The Commissioner for the time being for the Northern Division of the Presidency of Bombay, the Accountant-General for the time being of Bombay, and the Collector for the time being of Bombay, and the holders for the time being of those offices respectively, and likewise the holder or holders for the time being of any one or more office or offices which may hereafter be substituted by the ¹[Provincial Government] of Bombay for any one or more of the first mentioned offices, shall be, and they are hereby, created a Corporation with perpetual succession and a common Seal under the style and title of "Sir Jamsetjee Jejeebhoy Baronet's Trustees," and the said Corporation so hereby created (hereinafter styled "the Corporation") are hereby constituted, as such Corporation, the Trustees for executing the powers and purposes of this Act.

4. The present Sir Jamsetjee Jejeebhoy, Fifth Baronet, shall continue to be called by the name of "Jamsetjee Jejeebhoy," and all other the heirs male of the body of Sir Jamsetjee Jejeebhoy, First Baronet, to whom the said title and dignity shall descend, pursuant to the limitation of the Letters Patent whereby the said dignity was granted, shall take upon themselves, respectively the name of "Jamsetjee Jejeebhoy," in lieu and in the place of any other name or names whatsoever; and the present Baronet, and all such other heirs male of the said Sir Jamsetjee Jejeebhoy, First Baronet, severally and successively shall be called by the name of "Jamsetjee Jejeebhoy," and by that name shall name, style, and write themselves, respectively, upon all occasions whatsoever.

5. Immediately from and after the passing of this Act, the said Promissory Notes of the ²[Central Government], of the nominal value of rupees twenty-two lakhs, fifty-four thousand and four hundred, shall vest in the Corporation who shall hold the same upon the trusts, and for the purposes, and with the powers, hereinafter expressed of and concerning the same, that is to say :

(a) Upon trust, if the same or any part thereof should be discharged by the ²[Central Government], to invest the sum or sums paid by the ²[Central Government], in discharge of the same or any part thereof, in or upon any stocks, funds, or securities in which they are by the provisions of this Act hereinafter authorised to invest the same, and in like manner, as often as the same shall become necessary, to alter, vary and change such stocks, funds, and securities for others of the same or a like nature ;

(b) and upon further trust, from time to time, to pay and apply the dividends, interest, and annual income of the said stocks, funds, and securities unto and for the benefit of the present Baronet,

¹ Subs. by the A. O. for "G. in C."

² Subs. by the A. O. for "G. of I."

(2) The accounts, when audited, shall be published in the ¹[Official Gazette] and a copy of the accounts, together with the auditor's reports, shall be submitted to the Visitor.

14. The University shall invest, and keep invested, in securities in which ^{Perm} trust funds may be invested, in accordance with the provisions of the law ^{reser} relating to trusts in British India, a sum of fifty lakhs of rupees as a permanent ^{cover} endowment to meet the recurring charges of the University other than charges ^{recur} in respect of scholarships, prizes and rewards :

Provided that—

(1) any Government securities, as defined by the ²Indian Securities Act, 1886, which may be held by the University shall, for the purpose of this section, be reckoned at their face-value : and

(2) the aforesaid sum of fifty lakhs shall be reduced by such sum as, at the commencement of this Act, the ³[Central Government] shall, by order in writing, declare to be the total capitalised value, for the purposes of this section—

(a) of all permanent recurring grants of money which have been made to the University by any Indian Prince or Chief : and

(b) of the total income accruing from immoveable property which has been transferred to the University.

15. (1) The Central Hindu College, Benares, shall, from such ⁴date as ^{Maint} the ⁵[Central Government] may, by notification in the ⁶[Official Gazette], ^{and a} appoint in this behalf, be deemed to be a College maintained by the University, ^{sion t} and the University may found and maintain other colleges and institutions ^{leges} in Benares for the purposes of carrying out instruction and research. ^{colleg}

(2) With the approval of the Senate and the sanction of the Visitor, and subject to the Statutes and Regulations the University may admit colleges and institutions in Benares to such privileges of the University, subject to such conditions, as it thinks fit.

16. The degrees, diplomas, certificates and other academic distinctions ^{Reco} granted by the University, shall be recognized by ^{of deg} ⁷[any Government in British India] to the same extent and in the same manner as the corresponding degrees, diplomas, certificates and other academic distinctions granted by any other University incorporated by an ⁸[Act of the Central Legislature].

⁹[16A. The University shall constitute for the benefit of its officers, ^{Pensic} teachers and other servants such pension or provident fund as it may deem ^{Provic} fit in such manner and subject to such conditions as may be prescribed by ^{Fund.} the Statutes.]

¹ Subs. by the A. O. for "Gazette of India".

² See now the Indian Securities Act, 1920 (10 of 1920).

³ Subs. by the A. O. for "G. G. in C."

⁴ The 1st October, 1917, see Gen. R. and O., Vol. IV, p. 512.

⁵ Subs. by the A. O. for "the Govt."

⁶ Subs. by the A. O. for "Act of the G. G. in C."

⁷ Ins. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 4.

debentures issued by the Commissioners for the Port of Rangoon under the Local Authorities Loans Act, 1914, or the Rangoon Port Act, 1905 ;

- (e) on any other security expressly authorised by any rule which the High Court of Judicature at Bombay may, from time to time, prescribe as an investment for trust property consisting of money.

7. The Corporation shall not vary any investment of the funds, subject to the Settlement effected by this Act, without the consent in writing of the person for the time being entitled to the income of the said Funds.

8. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent, shall have power, with the written approval of the Corporation,—

- (a) to purchase land in any part of the Island of Bombay for the purpose of erecting thereon a Mansion House and all necessary or suitable accessory buildings, and to erect thereon such Mansion House and accessory buildings ;

- (b) to purchase land in any part of the Island of Bombay with a dwelling house standing thereon, and either to pull down the said dwelling house and any other building which may be upon the land, and to erect upon the said land, in lieu thereof, a Mansion House, with all necessary or suitable accessory buildings, or to enlarge, alter, or add to the building or buildings which may be upon the land, when purchased, so as to convert the same into a Mansion House, with all necessary or suitable accessory buildings.

9. The Corporation shall have power to sell a sufficient portion of the securities upon which the funds, which are subject to the Settlement effected by this Act, shall for the time being be invested to produce the sum which shall be required for the purpose of paying for any land which may be purchased by the person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent under the powers conferred by section 8, and for erecting thereon a Mansion House, with the necessary or suitable accessory buildings, or for paying for the purchase of any land with a house or other building standing thereon which may be purchased under the powers conferred as aforesaid, and for pulling down the said buildings, and erecting a Mansion House, with the necessary or suitable accessory buildings, in lieu thereof or for altering and adding to such buildings or the purpose of converting the same into a Mansion House, with the necessary or suitable accessory buildings, as the case may be :

(Schedule I.—First Statutes of the University.)

(ii) such Indian Princes and Chiefs as the Lord Rector may, of his own motion, or on the recommendation of the Court, from time to time, appoint.

(2) The Lord Rector may, on his own motion or on the recommendation of the Court appoint such persons, as he may think fit, to be Vice-Patrons of the University.

4. (1) The successors to the first Chancellor shall be elected by the Court. TH
CH

(2) The Chancellor shall hold office for three years.

5. (1) The Chancellor shall, by virtue of his office, be the head of the University. Po
th
Ch

(2) The Chancellor shall, if present, preside at the Convocation of the University for conferring degrees, and at all other meetings of the Court.

(3) The Chancellor may, on the recommendation of the Senate appoint Rectors, being persons of eminent position or attainment.

6. (1) The successors to the first Pro-Chancellor shall be elected by the Court from among its own members. TH
Ch

(2) The Pro-Chancellor shall hold office for one year.

(3) Casual vacancies in the office of the Pro-Chancellor shall be filled up by the Chancellor on the recommendation of the Council. The person so appointed shall hold office till the next annual election.

7. The Pro-Chancellor may, in the absence of the Chancellor or pending a vacancy in the office of Chancellor, exercise the functions of the Chancellor, except the conferring of degrees, and preside at any meetings of the Court. Po
th
Ch

8. (1) The successors to the first Vice-Chancellor shall be elected by the Court from among its own members. Such appointment shall be subject to approval by the Visitor. TH
Ch

(2) The Vice-Chancellor shall hold office for three years.

(3) Casual vacancies in the office of Vice-Chancellor shall be filled up by election by the Court, subject to approval by the Visitor. Until the election of a new Vice-Chancellor, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor.

9. (1) The Vice-Chancellor shall take rank in the University next to the Chancellor and the Pro-Chancellor, and shall be *ex-officio* Chairman of the Council, the Senate and the Syndicate. He shall be the principal Executive and Academic Officer of the University, and shall, in the absence of the Chancellor, preside at the convocation and confer degrees. Po
th
Ch

(2) It shall be the duty of the Vice-Chancellor to see that the Act, the Statutes and the Regulations are faithfully observed.

(3) The Vice-Chancellor shall have power to convene meetings of the Court, the Council, the Senate and the Syndicate, and to perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Regulations.

(4) If any emergency arises which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall

limiting or appointing the same, and to be issuing and payable out of the dividends, interest, and annual income, of the said stocks, funds, and securities, and to be paid and payable by equal half-yearly payments on the thirtieth day of June and the thirty-first day of December ; the first of the said half-yearly payment to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly sum, provided always, that in case any person on whom such title shall descend, shall have refused or neglected to use the names of " Jamsetjee Jejeebhoy," or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him, shall be and become inoperative and invalid ; and no such annuity thereby created or appointed shall take effect or be payable or chargeable on the said stocks, funds, and securities, notwithstanding any such limitation or appointment.

18. Provided always, that the said dividends, interest and annual income of the said stocks, funds, and securities shall not, at one and the same time, be subject to the payment of more than the yearly sum of rupees twenty thousand for, or in respect of, any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that, if by virtue of or under the same power, the said dividends, interest and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of rupees twenty thousand, the yearly sum which shall occasion such excess, or such part thereof as shall occasion the same, shall, during the time of such excess, abate and not be payable.

19. The said Mansion House and hereditaments called Mazagon Castle, with their rights, members, and appurtenances, and any lands, houses, buildings and tenements which may be purchased or erected under the powers conferred by section 8, with their rights, members, and appurtenances, shall not be subject to dower of any Dowager Lady Jejeebhoy, or of the present or any future wife of Sir Jamsetjee Jejeebhoy, Fifth Baronet, or of any wife of any of the persons who may successively be entitled to the Baronetcy under the aforesaid limitations, or to any other right, interest, or estate whatsoever which any Dowager Lady Jejeebhoy or any such wife or wives as aforesaid may or might have or claim to have in the said Mansion House, lands, buildings and hereditaments, under any custom or law of the Parsees, or otherwise howsoever.

20. So long as the said title and dignity of Baronet shall endure, and until there shall be a failure of the heirs male of the body of the First Baronet to whom the said title and dignity of Baronet might descend, pursuant to the limitations of the said Letters Patent, neither Sir Jamsetjee Jejeebhoy, Fifth Baronet, nor any of the heirs male of the body of Sir Jamsetjee Jejeebhoy, First Baronet, in whose favour trusts are hereinbefore declared of the dividends, and annual income of the said stocks, funds, and securities, or to whom the said Mansion House and hereditaments called Mazagon Castle and any lands, buildings, or other hereditaments, which may be purchased or erected

(Schedule I.—First Statutes of the University.)

14. (1) Subject to the provisions of the Act, and save as hereinafter provided in this Statute, the Court shall consist of the following persons, namely :—

Class I.—Ex-officio Members.

The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

Class II.—Donors and their representatives.

- (a) Every Indian Prince or Chief, contributing a donation of three lakhs of rupees or upwards, or transferring property of the like value, shall be a life-member from the date of the receipt of the donation or of the transfer, and after his decease, his successor for the time being holding his position as such Prince or Chief, shall be a life-member.
- (b) Every person contributing to the University a donation of one lakh of rupees or upwards, or transferring property of the like value, shall be a life-member from the date of the receipt of the donation or of the transfer.
- (c) Every person contributing to the University a donation of Rs. 10,000 or upwards, or transferring property of the like value, shall be a member for a period of ten years from the date of the receipt of his donation or of the transfer.
- (d) Every person who is a life-member in virtue of clause (a) may, from time to time, nominate one member. The member so nominated shall continue in office for such period as the nominator may specify to the Registrar, provided that his membership shall determine on the death of the nominator.
- (e) Every person who is a life-member in virtue of clause (b) may, by notice in writing to the Registrar, nominate one member to hold office for a period of five years.
- (f) Every donor who makes a bequest of Rs. 10,000 or upwards, or of property of the like value may, by or under his will, nominate one person who shall be a member for a period of five years from the receipt of the bequest.
- (g) Every Indian Prince or Chief who makes a permanent annual grant of money to the University shall, subject to the provisions of clause (j), have the same rights as to membership of, and representation on, the Court as if he had been a donor of such sum as represents the capital value ascertained at a rate of interest of $3\frac{1}{2}$ per cent. of such annual grant.
- (h) Every other grantor to the University of any annual grant of money, the payment of which is secured by mortgage of immoveable property affording sufficient security for such grant within the provisions of the *Explanation* to section 66 of the Transfer of Property Act, 1882, and effected by duly

loss or damage by fire, in such sum as the Corporation may deem adequate, and shall also, at his own expense, insure all houses and other buildings, which may be purchased or erected under the powers conferred by section 8, from the time when the same shall be conveyed to and become vested in the Corporation, against loss or damage by fire, in such sum as the Corporation may deem adequate, and in case any such person shall at any time neglect or refuse to insure the same in such amount or amounts, it shall be lawful for the Corporation to insure the same and to apply any portion of the income of the funds for the time being subject to the trusts of the Settlement effected by this Act to that purpose, and in case the hereditaments and premises so insured or any part thereof shall be destroyed or damaged by fire, the moneys received in respect of such insurance shall either be laid out under the directions of the Corporation in re-building or re-instating the hereditaments and premises so destroyed or damaged by fire, or, upon the application of the person for the time being entitled to, and in the enjoyment of, the said dignity of Baronet, and with the consent of the ¹[Provincial Government of Bombay] to be notified by a resolution of the Government of Bombay, may be laid out in the purchase of other hereditaments in the Island of Bombay suitable for the support of the dignity of the said Baronetcy and, in such last mentioned case, the hereditaments so purchased shall be conveyed to and vested in the Corporation, and the Corporation shall hold the same upon the same trusts and for the same ends, intents, and purposes, and with the same powers, as are declared and conferred by this Act of and concerning the hereditaments and premises which shall have been so destroyed or damaged by fire as aforesaid, or such of them as shall then be subsisting and capable of taking effect; and until such insurance moneys shall have been so laid out as aforesaid, the Corporation may invest the same or any part thereof in any of the securities specified in section 6.

23. The person for the time being entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent shall, at his own expense, keep in good repair, order, and condition, the said Mansion House and other hereditaments called Mazagon Castle and all offices and out-buildings accessory thereto, and likewise all houses and other buildings which may be purchased or erected under the powers conferred by section 8, and all alterations and additions thereto, and all offices, out-houses and other buildings accessory thereto, and, in case any person shall at any time neglect or refuse to keep the same or any part thereof in such good order and condition, it shall be lawful for the Corporation to cause the same to be kept in good order and condition, and to defray the expenses incidental thereto, out of the income of the funds for the time being subject to the trusts of the Settlement effected by this Act.

24. The Corporation shall have power at any time, with the consent of the person entitled to, and in the enjoyment of, the title of Baronet conferred by the said Letters Patent, and of the ¹[Provincial Government of Bombay] to be notified by a resolution of the Government of Bombay to sell or exchange

¹ Subs. by the A. O. for "Governor of Bombay in Council".

(Schedule I. First Statutes of the University.)

Provided that, as nearly as may be, one fifth of the total number of the members of the first Court in each of the groups of Class III shall retire by ballot at the end of each year for the first four years.

(5) All casual vacancies among the appointed or elected members shall be filled, as soon as conveniently may be, by the person or body who appointed or elected the member whose place has become vacant, and the person appointed or elected to a casual vacancy shall be a member for the residue of the term for which the person, in whose place he is appointed or elected, was a member.

15. The Court shall exercise control over the Senate through the Council ^{the} and not otherwise, and over the Faculties through the Council and Senate ^{and} and not otherwise, and over the Council by means of Statutes and Resolutions passed at a meeting of the Court and not otherwise.

16. (1) As soon as may be after the commencement of the Act, the first ^{Meeting} Court shall assemble at such place and time, as the Chancellor may direct, ^{of the} in order to make the necessary appointments and elections for the purpose of the Act and Statutes.

(2) An annual meeting of the Court shall be held during the month of October in each year, unless some other month be fixed by Resolution at a previous annual general meeting, on such day and at such hour as shall be appointed by the Council. And at such yearly meeting, a report of the proceedings of the Council and of the University, together with a statement of the receipts and expenditure and the balance sheet as audited, shall be presented by the Council to such meeting, and any vacancies among the officers of the University or among the members of the Court or Council which ought to be filled up by the Court shall be filled up.

(3) A copy of the statement of receipts and expenditure and of the balance-sheet referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting, and shall be open to the inspection of all members of the Court and Senate at the office of the University during the year following such annual meeting, at such reasonable hours and under such conditions as the Council may determine.

(4) Twenty members of the Court shall form a quorum.

(5) Special general meetings of the Court may be convened by the Council at any time.

17. (1) The Council shall consist of the following persons, namely: The

(i) The Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

(ii) Not more than thirty elected members, of whom five shall be members of the Senate elected by the Senate, and the remainder members of the Court elected by the Court.

(2) Not less than five of the members to be elected by the Court shall be residents of places outside the United Provinces of Agra and Oudh.

(3) At the first election of members of the Council by the Court, it shall

notwithstanding anything in this Act contained to the contrary, to enter into an arrangement with the Government of Bombay whereby, in consideration of the waiver in perpetuity by the Government of Bombay of their right to enhance the amount of the assessment to land-revenue for the time being payable in respect of the land occupied by the said Mansion House and other hereditaments, called Mazagon Castle, either the amount of the assessment to land-revenue payable in respect of any land which may be purchased in pursuance of the power in that behalf conferred by section 8, may be enhanced, or an assessment to land-revenue of any land so purchased, which at the time of the purchase thereof shall not be liable to the payment of land-revenue, may be imposed thereon.

29. The Trustees for the time being acting in the execution of the trusts and powers hereby created and reposed in them respectively, and their successors, respectively, shall be charged and chargeable for such moneys only as he and they respectively shall actually receive by virtue of the trusts, powers and provisions of this Act, notwithstanding his, their, or any of their giving or signing, or joining in giving or signing any receipt or receipts, for the sake of conformity ; and he and they respectively shall not be answerable or accountable for any banker or broker, agent, or other person with whom or in whose hands any part of the said trust moneys shall or may be deposited or lodged for safe custody, or otherwise in the execution of any of the trusts, powers, and provisions hereinbefore created or contained ; and the Trustees for the time being acting in the execution of the trusts and powers hereby created, and reposed in them respectively, and their successors respectively, shall not be answerable or accountable for the insufficiency or deficiency of any security or securities, stocks, or funds, in or upon which the said trust moneys or any part thereof shall be placed out or invested, nor for any other misfortune, loss or damage which may happen in the execution of the aforesaid trusts, powers and provisions or in relation thereto ; and it shall be lawful for him and them respectively with or out of the money which shall come to his or their respective hands by virtue of the trusts and provisions of this Act, to retain and reimburse to himself and themselves respectively all costs, damages and expenses which he and they respectively shall or may sustain, expend, or disburse in or about the execution of the aforesaid powers, trusts, and provisions or in relation thereto.

30. Saving always to the King's Most Excellent Majesty, His heirs and successors, and to all and every other person and persons, bodies politic and corporate, and his, her and their respective heirs, successors, executors, and administrators and every of them (other than and except the devisees, heirs and assigns of the said Sir Jamsetjee Jejeebhoy, First Baronet), all such estate, right, title, interest, claim, and demand whatsoever of, in, to, out of, or upon the said Mansion House and hereditaments, called Mazagon Castle, and any lands, buildings or other hereditaments, which may be purchased or erected, under the powers conferred by section 8 or any part or parts thereof, as they, every, or any of them had before the passing of this Act and would, could, or might have had, held, or enjoyed in case this Act had not been passed.

(Schedule I.—First Statutes of the University.)

- (vi) To provide the buildings, premises, furniture, and apparatus, and other means needed for carrying on the work of the University.
- (vii) To enter into, vary, carry out, and cancel contracts on behalf of the University.
- (viii) To entertain, adjudicate upon, and, if thought fit, redress any grievances of the officers of the University, the Professors, the Teaching Staff, the graduates, under-graduates and the University servants, who may, for any reason, feel aggrieved, otherwise than by an act of the Court :

Provided that nothing in this provision shall be deemed to confer on the Council any power to interfere in any matter of discipline in regard to graduates and under-graduates.

- (ix) To maintain a register of donors to the University.
- (x) To select a Seal for the University, and provide for the custody and use of the Seal.

19. (1) The Senate shall, save as hereinafter provided in this Statute, The Senate ordinarily consist of not less than fifty members, of whom not less than three-fourths shall be Hindus, and shall include the following persons namely :—

Class I.—Ex-officio Members.

- (a) The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.
- (b) The University Professors.
- (c) The Principals or heads of Colleges.

Class II.—Elected Members.

- (a) Five members to be elected by the Court.
- (b) Five members to be elected by the registered graduates of the University from such date as the Court may fix.
- (c) Five representatives of Hindu religion and Sanskrit learning to be elected by the Senate.
- (d) Ten representatives to be elected by the Senate from persons engaged in the teaching work of the University or its Colleges.
- (e) Should the Vice-Chancellor declare that there is a deficiency in the number of members required in any Faculty or Faculties, then five or less persons elected by the Senate, eminent in the subject or subjects of that Faculty or those Faculties.

(2) It extends to the whole of the North-West Frontier Province, and applies also to every member of the Constabulary, wherever he may be serving; and

(3) It shall come into force on such day¹ as the ²[Central Government] may, by notification in the Official Gazette, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “member of the Constabulary” means a person other than a person appointed by the ²[Central Government] who, at the commencement of this Act, is serving in the Frontier Constabulary, or who, after the commencement of this Act, has been appointed to the Frontier Constabulary under this Act, and has signed a recruiting-roll on which the conditions of service contained in the Schedule are set forth :

Provided that every person who has for the space of six months been in the receipt of pay as a member of the Frontier Constabulary, and been borne on the rolls of the Frontier Constabulary shall be deemed to be a member of the Constabulary, notwithstanding that he has not signed the said recruiting-roll :

(b) “Commandant” means a person appointed by the ²[Central Government] to be a Commandant of the Frontier Constabulary :

(c) “active service” means service against hostile tribes, raiders or other hostile persons, or persons co-operating with or assisting such tribes, raiders or hostile persons :

(d) the expressions “assault,” “criminal force,” “fraudulently and without reasonable cause,” “reason to believe” and “voluntarily causing hurt” have the meanings assigned to them, respectively, in the Indian Penal Code.

³[In this section references to appointments by the Central Government shall be construed as including references to appointments made before the commencement of Part III of the Government of India Act, 1935, by the Provincial Government.]

3. ⁵[There shall continue to be a force, maintained by the Central Government, and called] the Frontier Constabulary, for the better protection and administration of the external frontier of British India within the limits of adjoining the North-West Frontier Province or any part thereof.

4. The Frontier Constabulary shall be constituted in such manner, and the members of the Constabulary shall receive such pay, pension, and other remuneration as shall from time to time ⁶ * * * be ordered by the ²[Central Government].

¹ The 15th October, 1915 ; see N.-W. F. P. Gazette, dated 29th November, 1915.

² Subs. by the A. O. for “L. G.”

³ Ins. by the A. O.

⁴ I. e. the 1st April, 1937.

⁵ Subs. by the A. O. for “The L. G. may continue to maintain a force, to be called ”.

⁶ The words “with the previous sanction of the G. G. in C.” rep. by the A. O.

(Schedule I.—First Statutes of the University.)

21. (1) The Syndicate shall be the executive body of the Senate, and shall consist of the Vice-Chancellor, the Pro-Vice-Chancellor and fifteen persons elected by the Senate, of whom not less than ten shall be University Professors or Principals or Professors of Colleges.

(2) The elected members of the Syndicate shall hold office for three years : Provided that, as nearly as may be, one-third of the elected members of the first Syndicate shall retire by ballot at the end of each year for the first two years.

(3) All casual vacancies among elected members may be filled up by the Senate.

(4) Five members of the Syndicate shall be a quorum.

22. It shall be the duty of the Syndicate, subject to the revision and control of the Senate,—

- (i) to order examinations in conformity with the Regulations, and to fix dates for holding them ;
- (ii) to appoint Examiners, and, if necessary, to remove them, and, subject to the approval of the Council, to fix their fees, emoluments and travelling and other allowances, and to appoint Boards of Examiners and Moderators ;
- (iii) to appoint, whenever necessary, Inspectors or Boards of Inspectors for inspecting Colleges applying for admission to the privileges of the University ;
- (iv) to declare the results of the various University Examinations, and to recommend for degrees, honours, diplomas, licences, titles and marks of honour ;
- (v) to award stipends, scholarships, medals, prizes and other rewards, in conformity with the Regulations and the conditions prescribed for their award ;
- (vi) to consider and make such reports, or recommend such action, as may be deemed necessary, on proposals or motions brought forward by the members of the Senate and Faculties, for consideration by the Senate ;
- (vii) to publish lists of prescribed, or recommended, text books and to publish statements of the prescribed courses of study ;
- (viii) to prepare such forms and registers as are, from time to time, prescribed by the Regulations ; and generally,
- (ix) to perform all such duties and to do all such acts, as may be necessary, for the proper carrying out of the provisions of the Act, and the Statutes and Regulations or the Resolutions of the Senate.

23. (1) The University shall include the Faculties of—(1) Oriental learning, (2) Theology, (3) Arts, (4) Science, Pure and Applied, (5) Law, and, as soon as the Visitor is satisfied that sufficient funds are available for the purpose,

who, while on active service,—

- (e) disobeys the lawful command of his superior officer ; or,
- (f) deserts the service ; or,
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or,
- (h) without authority, leaves his commanding officer, or his post or party, to go in search of plunder ; or,
- (i) quits his guard, picquet, party, or patrol without being regularly relieved or without leave ; or,
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or, without authority, breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind ; or,
- (k) intentionally causes or spreads a false alarm in action or in camp, garrison, or quarters ; or,
- (l) displays cowardice in the execution of his duty ;

shall be punishable with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

(2) If any member of the Constabulary while on active service with a force beyond the limits of British India, is charged with committing any offence described in clause (c), clause (d), or clause (f), of sub-section (1), or the offence of culpable homicide amounting to murder, he may be summarily tried for such offence by the Political Officer accompanying the force, sitting with two other officers appointed by the Political Officer for this purpose.

(3) Every officer appointed under sub-section (2) shall be either—

- (a) a British officer, that is to say, a person holding a commission in His Majesty's land forces, or,
- (b) a civil officer, of gazetted rank, or,
- (c) a person appointed under section 5 :

Provided that, if circumstances permit, not less than one such officer shall be a Constabulary Officer appointed under section 5.

(4) If one or both of the officers sitting with the Political Officer concur with him in finding the accused guilty, and the Political Officer so directs, the accused shall be forthwith shot to death.

9. Every member of the Constabulary who commits any of the following offences, that is to say,—

- (a) is in state of intoxication when on, or after having been warned for, any duty, or on parade or on the line of march ; or,
- (b) strikes or attempts to force any sentry ; or,

(Schedule I.—First Statutes of the University.)

1916 : Act VII.]

Medical Degrees.

of qualification by, or invalidity in, the election or appointment of any *de facto* member of the body, whether present or absent.

29. Where, by the Statutes or Regulations, no provision is made for a President or chairman to preside over a meeting of any University authority, Board or Committee, or when the president or chairman so provided for is absent, the members present shall elect one of their number to preside at the meeting.

30. Every officer of the University and every member of any University authority, whose term of office or of membership has expired, shall be eligible for re-appointment or re-election, as the case may be.

31. Any member of the Court, the Council, the Senate or the Syndicate or any other University authority may resign by letter addressed to the Secretary in the case of the Court, and to the Registrar in all other cases.

32. A member of the Court or the Senate may be removed from office on conviction by a Court of law of what, in the opinion of the Court or the Senate, as the case may be, is a serious offence involving moral delinquency :

Provided that a Resolution for the removal of any such member is approved by not less than two-thirds of the members present at the meeting of the Court or the Senate, as the case may be, at which such a Resolution is proposed :

And provided further that such a Resolution is confirmed by a like majority at a subsequent meeting of the Court or Senate, as the case may be.

THE INDIAN MEDICAL DEGREES ACT, 1916.

ACT No. VII OF 1916.¹

[16th March, 1916.]

An Act to regulate the grant of titles implying qualifications in Western medical science, and the assumption and use by unqualified persons of such titles.

WHEREAS it is expedient to regulate the grant of titles implying qualifications in Western medical science, and the assumption and use by unqualified persons of such titles ; It is hereby enacted as follows :—

1. This Act may be called the Indian Medical Degrees Act, 1916.

¹ For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 76 ; for Report of Select Committee, see *ibid.*, 1916, Pt. V, p. 7 ; and for Proceedings in Council, see *ibid.*, 1915, Pt. VI, p. 460, and *ibid.*, 1916, Pt. VI, pp. 5 and 206.

- (n) absents himself without leave, or without sufficient cause over-stays leave granted to him ; or,
- (o) is guilty of any act or omission which, though not specified in the Act, is prejudicial to good order and discipline ; or,

who, while not on active service,—

- (p) disobeys the lawful command of his superior officer ; or
- (q) deserts the service ; or,
- (r) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or,
- (s) quits his guard, picket, party, or patrol without being regularly relieved or without leave ; or,
- (t) plunders, destroys or damages any property of any kind ; or,
- (u) displays cowardice in the execution of his duty ;

shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

10. (1) The Commandant or the District Constabulary Officer may, subject to any rules made under this Act, award in lieu of, or in addition to, suspension or dismissal, any of the following punishments to any member of the Constabulary who is, in the opinion of the Commandant or the District Constabulary Officer, as the case may be, guilty of disobedience, neglect of duty, or remissness in the discharge of any duty, or of rendering himself unfit to discharge his duty, or of other misconduct in his capacity as such member of the Constabulary, that is to say,—

- (a) reduction in rank and emoluments ;
- (b) fine to any amount not exceeding one month's pay and allowances ;
- (c) confinement to quarters for a term not exceeding one month ;
- (d) confinement in the quarter-guard for not more than twenty-eight days with or without punishment-drill or extra guard, fatigue or other duty ; and
- (e) removal from any office of distinction or special emolument in the Constabulary.

(2) The Commandant or the District Constabulary Officer, or an officer not being below the rank of Subedar, commanding a separate detachment or an outpost, or in temporary command at the head-quarters of a district during the absence of the Commandant and the District Constabulary Officer may, without a formal trial, award to any member of the Constabulary who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say,—

- (a) confinement for not more than seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance ; and,
- (b) punishment-drill, or extra guard, fatigue or other duty, for not more than thirty days, with or without confinement to quarters.

SCHEDULE.

(See section 3.)

1. Every University established by an ¹[Act of the Central Legislature.]
2. The State Medical Faculty in Bengal.
3. The College of Physicians and Surgeons of Bombay.
4. The Board of Examiners, Medical College, Madras.

THE HINDU DISPOSITION OF PROPERTY ACT, 1916.

ACT No. XV OF 1916.²

[28th September, 1916.]

An Act to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition.

WHEREAS it is expedient to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition ; It is hereby enacted as follows :—

1. (1) This Act may be called the Hindu Disposition of Property Act. Sho

(2) It extends, in the first instance, to the whole of British India, except and the province of Madras : Provided that the ³[Provincial Government] may, by notification in the ⁴[Official Gazette], extend this Act to the province of Madras.

2. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not in existence at the date of such disposition. Disposition for benefit of persons not existing

3. The limitations and provisions referred to in section 2 shall be the following, namely :— Lim and conc

(a) in respect of dispositions by transfer *inter vivos*, those contained in ⁵[Chapter II] of the Transfer of Property Act, 1882, and

¹ Subs. by the A. O. for " Act of the G. G. in C."

² For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 2 ; for Report of Select Committee, see *ibid.*, 1916, Pt. V, p. 76 ; and for Proceedings in Council, see *ibid.*, 1916, Pt. VI, pp. 19, 509, 542 and 585.

³ Subs. by the A. O. for " G. G. in C."

⁴ Subs. by the A. O. for " Gazette of India."

⁵ Subs. by the Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929), s. 12, for " sections 13, 14 and 20 ".

without the permission in writing (to be previously obtained) of the Commandant or the District Constabulary Officer or other officer authorised by the Commandant to grant such permission.

15. (1) It shall be the duty of every member of the Constabulary promptly to obey and to execute all orders and warrants lawfully issued to him by any competent authority, to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension sufficient grounds exist.

(2) Every member of the Constabulary shall be liable to serve without and beyond, as well as within, the limits of British India.

16. The ¹[Central Government] may, by general or special order, confer or impose upon any member of the Constabulary any of the powers or duties conferred or imposed on a Police-officer of any class or grade by any enactment for the time being in force.

17. (1) In any suit or proceeding against any member of the Constabulary for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Such plea may be proved by the production of the warrant or order directing the act, and, if it is so proved, such member of the Constabulary shall thereupon be discharged from liability in respect of the act so done by him notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) All suits and proceedings (whether civil or criminal) against any person which may lawfully be brought for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder, shall be commenced within three months after the act complained of was committed and not otherwise; and notice in writing of such suit or proceeding and of the cause thereof shall be given to the defendant or his superior officer one month at least before the commencement of the suit or proceeding.

18. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the ¹[Central Government] may declare that the Court of any Deputy Commissioner and no other Court, shall be deemed to be the Court of Session for the disposal of cases, or any class of cases, arising under this Act.

19. Any person invested with any powers under the Code of Criminal Procedure, 1898, for the disposal of any case under this Act within the limits ^{V of 18} of British India shall, in relation to any case arising under this Act beyond such limits, have the same power and be subject to the same conditions as to appeal or otherwise as if such case had arisen within such limits.

¹ Subs. by the A. O. for "L. G."

	PAGE.
Administrator General's Act, 1913	182
Animals Protection—see Wild Birds and Animals Protection Act, 1912	165
Army—see Indian Army Act, 1911	39
Benares Hindu University Act, 1915	534
Bengal, Bihar and Orissa and Assam Laws Act, 1912	159
Calcutta Improvement (Appeals) Act, 1911	92
Companies—see Indian Companies Act, 1913	220
Constabulary—see North-West Frontier Constabulary Act, 1915	525
Co-operative Societies Act, 1912	102
Copyright—see Indian Copyright Act, 1914	458
Cowasjee Jehangir Baronetcy Act, 1911	93
Delhi Laws Act, 1912	167
Delhi Laws Act, 1915	503
Designs—see Indian Patents and Designs Act, 1911	1
Destructive Insects and Pests Act, 1914	457
Hindu Disposition of Property Act, 1916	555
Indian Army Act, 1911	39
Indian Companies Act, 1913	220
Indian Copyright Act, 1914	458
Indian Lunacy Act, 1912	118
Indian Medical Degrees Act, 1916	553
Indian Motor Vehicles Act, 1914	487
Indian Patents and Designs Act, 1911	1
Insects—see Destructive Insects and Pests Act, 1914	457
Local Authorities Loans Act, 1914	493
Lunacy—see Indian Lunacy Act, 1912	118
Matches—see White Phosphorus Matches Prohibition Act, 1913	166
Medical Degrees—see Indian Medical Degrees Act, 1916	553
Motor Vehicles—see Indian Motor Vehicles Act, 1914	487
Mussalman Wakf Validating Act, 1913	525
North-West Frontier Constabulary Act, 1915	525
Official Trustees Act, 1913	1
Opium (Amendment) Act, 1911	1
Patents—see Indian Patents and Designs Act, 1911	1
Pests—see Destructive Insects and Pests Act, 1914	457
Prevention of Seditious Meetings Act, 1911	1
Sir Currimbhoy Ebrahim Baronetcy Act, 1913	93
Sir Jamsetjee Jejeebhoy Baronetcy Act, 1915	220
Sir Sassoon Jacob David Baronetcy Act, 1915	458
Societies—see Co-operative Societies Act, 1912	102
Trustees—see Official Trustees Act, 1913	1
University—see Benares Hindu University Act, 1915	534
Wakf—see Mussalman Wakf Validating Act, 1913	525
White Phosphorus Matches Prohibition Act, 1913	166
Wild Birds and Animals Protection Act, 1912	165

application, unless your discharge would cause the vacancies in the Frontier Constabulary to exceed one-tenth of the sanctioned strength, in which case you shall be bound to remain until this objection is waived by competent authority or removed. But when on active service you shall have no claim to a discharge, and you shall be bound to remain to do your duty until the necessity for retaining you in the Frontier Constabulary ceases, when you may make your application in the manner hereinbefore prescribed :

Provided that, if you wish to withdraw from the Frontier Constabulary, you may resign at any time before the expiration of the first three months of your service, but not afterwards until the completion of the period prescribed as aforesaid :

Provided, also, that the Commandant or the District Constabulary Officer may, if he thinks fit, allow you to resign at any time on your giving three months' notice of your wish to do so.

*Signature of the member of the Constabulary in }
acknowledgment of the above having been } A. B.
read to him. }*

Signed in my presence after I had ascertained }
that A. B. understood the purport of } C. D.
what he signed. }

Commandant or, District
Constabulary Officer.

THE BENARES HINDU UNIVERSITY ACT, 1915.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Definition.
3. Incorporation.
4. University open to all classes, castes and creeds save as regards religious instruction.
5. Lord Rector, Patrons and Vice-Patrons.
6. Visitor.
7. Authorities and officers of the University.
8. Powers and duties of officers, terms of office and filling of casual vacancies.
9. The Court.
10. The Council.
11. The Senate.
12. The Syndicate.

8. Subject to the provisions of this Act, the powers and duties of the officers of the University, the term for which they shall hold office, and the filling up of casual vacancies in such offices, shall be provided for by the Statutes.

9. (1) The Court shall be the supreme governing body of the University in administrative matters, and shall have power to review the acts of the Senate (save when the Senate has acted in accordance with powers conferred on it under this Act, the Statutes or the Regulations), and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes.

¹[(2) No person not being a Hindu shall become or be appointed a member of any Court other than the first Court unless he has been a member of the first Court.]

10. (1) The Council shall be the executive body of the Court, and shall, in addition to *ex-officio* members, consist of not more than thirty elected members :

Provided that five members, other than *ex-officio* members, shall be members of the Senate elected by the Senate.

(2) The Council shall exercise such powers and perform such duties as may be vested in it by the Statutes.

11. (1) The Senate shall be the academic body of the University and, subject to the Act, the Statutes and Regulations, shall have entire charge of the organization of instruction in the University and the Colleges, the courses of study and the examination and discipline of students and the conferment of ordinary and honorary degrees.

(2) The Senate shall ordinarily consist of not less than fifty members.

12. (1) The Syndicate shall be the executive body of the Senate, and shall consist of ²[twenty] members :

Provided that ten at least of the members of the Syndicate, other than *ex-officio* members, shall be University Professors or Principals or Professors of Colleges.

(2) The Syndicate shall exercise such powers and perform such duties as may be vested in it by the Statutes.

13. (1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by auditors appointed by the Court :

Provided that no person shall be appointed an auditor in the exercise of this power, unless he is qualified in accordance with the provisions of the Indian Companies Act, 1913, to audit accounts of companies under that Act. VII

¹ Subs. by the Benares Hindu University (Amendment) Act, 1922 (3 of 1922), s. 2, for the original sub-section.

² Subs. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 3, for "seventeen".

17. (1) Subject to the provisions of this Act, the Statutes may provide for any or all of the following matters, namely :—

(a) the constitution, powers and duties of the Court, the Council, the Senate, the Syndicate, ¹[the Standing Finance Committee] and such other bodies, as it may be deemed necessary to constitute from time to time ;

(b) the election and continuance in office of the members of the said bodies, including the continuance in office of the first members, and the filling of vacancies of members and all other matters relative to those bodies for which it may be necessary or desirable to provide ;

(c) the appointment, powers and duties of the necessary officers of the University ;

¹[(cc) the constitution of a pension or provident fund for the benefit of the officers, teachers and other servants of the University] ;

(d) for the instruction ¹[and examination] of Hindu students in Hindu religion ; and

(e) all other matters relating to the administration of the University.

(2) The first Statutes shall be those set out in Schedule I.

(3) The Court may, from time to time, make new or additional Statutes or may amend or repeal the Statutes.

(4) The Council shall have power to draft and propose to the Court Statutes to be made by the Court, and it shall be the duty of the Court to consider the same.

(5) All new Statutes or additions to the Statutes or amendments or repeals to Statutes other than Statutes providing for the instruction of Hindu students in Hindu religion, shall require the previous approval of the Visitor, who may sanction, disallow or remit ²[them] for further consideration :

Provided that no Statute making a change in the constitution of the Court, the Council, the Senate or the Syndicate, as provided for in the first Statutes, ¹[and no Statute containing, repealing or amending any provision which relates to the constitution, powers or duties of the Standing Finance Committee], shall be made without the previous sanction of the ³[Central Government].

18. (1) Subject to the provisions of this Act and the Statutes, the regulations may provide for any or all of the following matters, namely :—

(a) the payment of fees to the University and their amount ;

(b) the admission of students to the University and their examination ;

(c) the tenure of office and terms and manner of appointment and the duties of the examiners and examining boards ;

¹ Ins. by the Benares Hindu University (Amendment) Act, 1930 (29 of 1930), s. 5.

² Ins. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I.

³ Subs. by the A. O. for " G. G. in C."

(Schedule I.—First Statutes of the University.)

may issue such instructions, as appear to [it] to be necessary and desirable in the circumstances of the case, and the Court shall give effect to such instructions.

20. (1) From the commencement of this Act, the Hindu University Society shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the Hindu University Society which, immediately before the commencement of this Act, belonged to, or were vested in, the said Society, shall vest in the University, and shall be applied to the objects and purposes for which the University is incorporated.

(2) From the commencement of this Act, all debts and liabilities of the said Society shall be transferred and attached to the University, and shall thereafter be discharged and satisfied by the University.

(3) Any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the Central Hindu College or the said Society shall, on the commencement of this Act, be construed as if the University were therein named, instead of the said College or Society.

SCHEDULE I.

FIRST STATUTES OF THE UNIVERSITY.

[See sections 3 and 17 (2).]

1. (1) In these Statutes—

“The Act” means the Benares Hindu University Act, 1915.

(2) All words and expressions used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.

2. (1) The following persons shall be members of the University, namely:—

- (i) The officers of the University.
- (ii) The members of the University authorities.
- (iii) The members of the teaching staff.
- (iv) The graduates.
- (v) The under-graduates.

(2) Membership of the University shall continue so long only as one at least of the qualifications above enumerated shall continue to be possessed by the individual member.

3. (1) The following persons shall be the Patrons of the University, namely:—

- “(i) all Governors and Chief Commissioners in British India;]

¹ Sub. by the A. O. for “him.”

² Sub. by the A. O. for the original paragraph.

(Schedule I.—First Statutes of the University.)

take such action as he deems necessary, and shall report the fact to the authority which in the ordinary course would have dealt with the matter.

10. (1) The Pro-Vice-Chancellor shall be elected by the Court. The appointment shall be subject to approval by the Visitor.

(2) He shall hold office for such period and under such conditions as shall, from time to time, be determined by the Court.

(3) Casual vacancies in the office of the Pro-Vice-Chancellor shall be filled up by the Vice-Chancellor with the approval of the Chancellor and the Visitor. The person so appointed shall hold office till the next meeting of the Court.

11. The Pro-Vice-Chancellor shall be *ex-officio* Secretary of the Court and the Council. He shall be the executive assistant of the Vice-Chancellor in all matters affecting the discipline of the graduates and under-graduates.

12. (1) The Registrar shall be a whole-time paid officer of the University, and shall be appointed by the Council. He shall be *ex-officio* Secretary of the Senate and the Syndicate. He shall hold office for a term of five years.

(2) The Registrar may be a member of the Senate, but shall not be a member of the Syndicate.

(3) It shall be the duty of the Registrar,—

(a) to be the custodian of the records, common seal and such other property of the University as the Syndicate shall commit to his charge ;

(b) to act as Secretary to the Senate and the Syndicate, and to attend, as far as possible, all meetings of the Senate, Syndicate, Faculties, and any Committees appointed by the Senate, the Syndicate, or the Faculties, and to keep minutes thereof ;

(c) to conduct the official correspondence of the Senate and the Syndicate ;

(d) to issue all notices convening meetings of the Senate, Syndicate, Faculties, Boards of Studies, Boards of Examiners, and of any Committees appointed by the Senate, the Syndicate, the Faculties or any of the Boards ;

(e) to arrange for, and superintend, the examinations of the University at Benares ; and

(f) to perform such other work as may, from time to time, be prescribed by the Syndicate.

13. (1) The Treasurer shall be appointed by the Court. He shall hold office for the term of one year.

(2) Casual vacancies in the office of Treasurer shall be filled up by election by the Council. The person so appointed shall hold office for the unexpired period of office of the person in whose place he is elected.

(3) The receipt of the Treasurer for any money payable to the University shall be sufficient discharge for the same.

(Schedule I.—First Statutes of the University.)

proceed in the first place to elect twenty members. The Court shall, as soon as the result of the election is declared, proceed to determine the province, or provinces or States, from among the residents of which the remaining five members are to be elected, and assign to each province or State the number of member or members to be elected.

(4) At each subsequent election, as nearly as may be, four-fifths of the vacancies shall be first filled up. The remaining one-fifth of the vacancies shall then be filled up to secure representation of provinces and States, on the same lines *mutatis mutandis* as provided in sub-section (3).

(5) The elected members of the Council shall hold office for the term of three years :

Provided that, at the first annual meeting of the Court, and at the second annual meeting of the Court, as nearly as may be, one-third of the first elected members shall retire by ballot.

(6) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(7) Seven members of the Council shall form a quorum.

18. (1) The Council shall, subject to the control of the Court, have the management and administration of the whole revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the Act, the Statutes and any Regulations made in pursuance thereof, the Council shall, in addition to all other powers vested in it, have the following powers, namely :—

- (i) To appoint, from time to time, Principals of Colleges and such University Professors, Professors, Assistant Professors, Readers, Lecturers and other members of the teaching staff, as may be necessary, on the recommendation of the Board of Appointments.
- (ii) In the case of other appointments, to delegate, subject to the general control of the Council, the power of appointment to such authority or authorities as the Council may, from time to time, by Resolution, either generally or specially direct.
- (iii) To manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and, for that purpose, to appoint such agents as it may think fit.
- (iv) To invest any moneys belonging to the University, including any unapplied income in such stocks, funds, shares, or securities, as it shall, from time to time, think fit, or in the purchase of immoveable property in India, with the like power of varying such investments from time to time.
- (v) To transfer or accept transfers of any moveable or immoveable property on behalf of the University.

*(Schedule I.—First Statutes of the University.)**Class III.—Nominated Members.*

(a) Five members to be nominated by the Visitor.

(2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Senate.

(3) The elected and nominated members of the Senate shall hold office for five years :

Provided that, as nearly as may be one-fifth of the total number of the members of the first Senate shown in each of the groups of Class II and of those shown in Class III shall retire by ballot at the end of each year for the first four years.

(4) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(5) Fifteen members of the Senate shall form a quorum.

20. (1) The Senate shall be the academic body of the University and subject to the Act, the Statutes and Regulations of the University, shall have entire charge of the organization of instruction, the courses of study and the examination and discipline of students (save so far as matters of discipline rest with the Pro-Vice-Chancellor and the heads of colleges) and the conferment of ordinary and honorary degrees.

(2) Subject to the Act and the Statutes and any Regulations made in pursuance thereof, the Senate shall, in addition to all other powers vested in it, have the following powers, namely :—

- (i) To report on any matter referred to or delegated to them by the Court or the Council.
- (ii) To discuss, and declare an opinion on, any matter whatsoever relating to the University.
- (iii) To make recommendations to the Council or to the Board of Appointments as to the removal of any Professor or Teacher of the University or of its Colleges, or as to the appointment of additional Professors or Teachers for the University or its Colleges.
- (iv) To formulate and modify or revise schemes for the organization of Faculties, and to assign to such Faculties their respective subjects and also to report to the Council as to the expediency of the abolition, combination, or sub-division of any Faculty.
- (v) To fix subject to any conditions made by the Founders which are accepted by the Court, the times and mode and conditions of competition for fellowships, scholarships, and other prizes, and to award the same.
- (vi) To promote research within the University and to require, from time to time, reports on such research.
- (vii) To maintain a register of graduates.

(Schedule I.—First Statutes of the University.)

of (6) Technology, (7) Commerce, (8) Medicine and Surgery, (9) Agriculture, and other Faculties.

(2) The Senate shall annually assign its members to the different Faculties.

(3) The method of assignment of members to the Faculties, the meetings of the Faculties, and their power of co-opting additional members shall be provided for by Regulations :

Provided that the members assigned to the Faculty of Theology shall all be Hindus.

24. (1) The Faculties shall have such powers, and shall perform such duties, as may be assigned to them by the Statutes and the Regulations, and shall, from time to time, appoint such and so many Boards of Studies, in different branches of knowledge as may be prescribed by the Regulations. They shall also consider and make such recommendations to the Senate on any question pertaining to their respective sphere of work as may appear to them necessary, or on any matter referred to them by the Senate.

(2) Five members, in the case of the Faculty of Arts, and three members, in the case of the other Faculties, shall constitute a quorum.

25. Convocations of the University for the conferring of degrees, or for other purposes, shall be held in a manner to be prescribed by Regulations.

26. The Court, Council, Senate, Syndicate and the Faculties may, from time to time, appoint such and so many standing and special Committees or Boards as may seem to them fit, and may, if they think fit, place on them persons who are not members of the appointing bodies. Such Committees may deal with any subject delegated to them, subject to subsequent confirmation by the appointing body.

27. (1) The Board of Appointments shall consist of—

- (i) The Vice-Chancellor.
- (ii) The Pro-Vice-Chancellor.
- (iii) Two members to be elected by the Court.
- (iv) Two members to be elected by the Council.
- (v) Two members to be elected by the Senate.
- (vi) Two members to be elected by the Syndicate.

(2) The elected members shall hold office for the term of two years. One member from each electing body, to be determined by ballot, shall retire at the end of the first year.

(3) The Vice-Chancellor shall preside at the meetings of this Board or, in his absence, the Pro-Vice-Chancellor.

(4) The meetings of the Board shall be convened by the Vice-Chancellor or Pro-Vice-Chancellor, or, when so directed by the Syndicate, by the Registrar.

(5) The Board shall consider and submit recommendations as to all appointments referred to it.

28. No Act or Resolution of the Court, the Council, the Senate, the Syndicate or the Faculties or any other authority shall be invalid by reason only of any vacancy in the body doing or passing it, or by reason of any want

2. In this Act, "Western medical science" means the Western methods of Allopathic medicine, Obstetrics and Surgery, but does not include the Homoeopathic or Aynurvedic or Unani system of medicine.

3. The right of conferring, granting, or issuing in British India degrees, diplomas, licences, certificates or other documents stating or implying that the holder, grantee or recipient thereof is qualified to practise Western medical science, shall be exercisable only by the authorities specified in the Schedule, and by such other authority as the ¹[Provincial Government] may, by notification² in the ³[Official Gazette], and subject to such conditions and restrictions as ⁴[it] thinks fit to impose, authorise in this behalf.

4. Save as provided by section 3, no person in British India shall confer, grant, or issue, or hold himself out as entitled to confer, grant, or issue any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practise Western medical science.

5. Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to one thousand rupees; and, if the person so contravening is an association, every member of such association who knowingly and wilfully authorises or permits the contravention, shall be punishable with fine which may extend to five hundred rupees.

6. Whoever voluntarily and falsely assumes, or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred, granted or issued by any authority referred to in section 3, or recognized by the General Council of Medical Education of the United Kingdom, or that he is qualified to practise Western medical science, shall be punishable with fine which may extend to two hundred and fifty rupees, or, if he subsequently commits, and is convicted of, an offence punishable under this section, with fine which may extend to five hundred rupees:

Provided that nothing in this section shall apply to the use by any person of any title, description, or addition which, prior to the commencement of this Act, he used in virtue of any degree, diploma, licence or certificate conferred upon, or granted or issued to him.

7. No Court shall take cognizance of an offence punishable under this Act except upon complaint made by order of the ⁵[Provincial Government], or upon complaint made, with the previous sanction of the ⁵[Provincial Government], by a Council of Medical Registration established by any enactment for the time being in force in the province.

8. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

¹ Subs. by the A. O. for "G. G. in C."

² For notifications authorising certain institutions in the various provinces to grant certificates, diplomas, degrees, etc., see Gen. R. and O., Vol. IV, pp. 513-515.

³ Subs. by the A. O. for "Gazette of India".

⁴ Subs. by the A. O. for "he".

⁵ Subs. by the A. O. for "L. G."

(b) in respect of dispositions by will, those contained in ¹[sections 113, 114, 115 and 116 of the Indian Succession Act, 1925.] X
19

4. [*Failure of prior disposition.*] *Rep. by the Transfer of Property (Amendment) Supplementary Act, 1929 (XXI of 1929), s. 12.*

5. Where the ²[Provincial Government] is of opinion that the Khoja community in ³[the Province] or any part thereof desire that the provisions of this Act should be extended to such community, ⁴[it] may, by notification in the ⁵[Official Gazette], declare that the provisions of this Act, with the substitution of the word "Khojas" or "Khoja", as the case may be, for the word "Hindus" or "Hindu" wherever those words occur, shall apply to that community in such area as may be specified in the notification, and this Act shall thereupon have effect accordingly.

¹ Subs. by the Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929), s. 12, for "sections 100 and 101 of the Indian Succession Act, 1865".

² Subs. by the A. O. for "G. G. in C."

³ Subs. by the A. O. for "British India".

⁴ Subs. by the A. O. for "he".

⁵ Subs. by the A. O. for "Gazette of India".